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International Court of Justice

H0157-0002

Official Transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilehlm Goering et al, Defendants, sitting at Nurnberg, Germany, on 14 June 1946, 1000-1700, Lord Justice Lawrence presiding.

DR. FRIEDRICH WIMMER -Resumed

CROSS-EXAMINATION - Continued

BY M. DEBENEST:

Q. I still have a few questions to put to this witness.

Witness, owing to the answer which you made yesterday about the libraries which have been looted and taken to Germany, I would like to read to you a few lines taken from a document which I have submitted day before yesterday to the Tribunal. This document is F-803, RF-1525, on page 34 of the French text. This is a report from the Minister of Education and Art, of the Netherlands. We find the following:

"The Collection, as well as the libraries of the International Institute for Social History at Amsterdam, have been closed down. The Library, which has about 150,000 volumes, has been taken to Germany as well as a very important collection of papers. The Library Rosenthaliana which belongs to the University of Amsterdam has been stacked in 153 crates and has also been taken to Germany.

"Famous collections concerning Natural History of the College of St. Ignace at Mont Aucon (Valkenburg), and the Museum of Natural History at Maestrich has also been taken to Germany as well as the Library which belonged to it.

"In 1940, all the Masonry Lodges were also taken away to Germany. Amongst them was the well known ..."

THE PRESIDENT: Monsieur Debenest, haven't you put enough for the purpose of your question now ? We have got the document, and you have already put about one-half dozen libraries which you are suggesting to him were taken to Germany, and you want to know what he has to say, I suppose. It is not necessary to go into the whole detail.

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BY M. DEBENEST:

Q. What do you think about this story ? Are these facts correct ?

A. The question which you have put to me was answered in part yesterday. As far as it concerns the property of Free Masons, it was said yesterday, and I confirmed it, that it is known to me that the property of the organizations, but not of the individuals, was confiscated.

THE PRESIDENT: That's not an answer to the question. The question is, was it true that these libraries were moved to Germany ?

WITNESS: I know nothing of the removal of these libraries.

BY M. DEBENEST:

Q. But you did, nevertheless, pretend that the Rosenthaliana Library had remained in the Netherlands, did you not ?

A. The Rosenthaliana, I said that.

Q. Well, maybe it was the Rosenthaliana, but you say that in the report it was specified that it was packed in crates and taken to Germany.

A. Do you mean the Rosenthaliana ?

Q. Yes, the Rosenthaliana.

A. I know that instructions were given by the Reich Commissar that this Library was to remain in Amsterdam. If it was removed, nevertheless, it was an illegal action of which I have no knowledge.

Q. But still it was you who had the task of controlling the education and the training in arts ?

A. Yes, but not of the arts.

Q. No, but as far as the Livraries and Universities were concerned ?

A. Yes.

Q. It is rather curious that you should not have been kept informed of this.

A. That the Libraries were removed ? I don't know.

Q. Well, alright. According to the statements which you made last evening you seemed to pretend that the Reich Commissar did all he could in favor of the Dutch Nation, isn't that so ?

A. Yes.

Q. At any rate, everything he could he did to avoid the worst, is that so ?

A. Yes.

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Q. But on the other hand, you knew that numerous people in that country had been arrested, interned, deported; others were shot; you also know that severe coercion was forced upon that nation in every sphere, under threat of extreme penalties and reprisals; you also knew that that country was looted. Who were then, the people who ordered the execution of these crimes ?

A. I said that the Reich Commissar did for the country what he could, and prevented as much as he could. In a 5-year period of occupation, measures had to be taken which were difficult for the country to bear. I did not deny the fact, and it is undeniable.

I would ask you to formulate your questions more concretely, and to mention the action which you call crimes. The question is too general for me to answer it yes or no, or at all briefly.

Q. Who ordered the crimes ?

A. I beg your pardon ?

Q. Who ordered the crimes ?

A. Which crimes ?

Q. Why, the arrests of the Dutch people, of course.

A. I beg your pardon ?

Q. The arrests of the Dutch people.

A. The arrests were ordered by the Higher SS and Police Chief , he was the Chief of the Police.

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Q Who ordered the internments?

A Which internments? Do you mean internments in the concentration camps?

Q In concentration camps and in internment camps.

A They were ordered by the Higher SS and Police Chief. That was his departme

Q Who chose the hostages?

A The police.

Q Who appointed Rauter, who was the Commissarnfor Public Security?

A As General Commissar for Public Security, he was appointed by the Reich Commissar, but his main function was that of the Higher SS and Police Chief. In this function, he was appointed by the Reichsfuehrer SS.

Q But he had been appointed--I suppose you know the ordinance--to assist the Reich Commissar in his job of helping with the police and for the security.

A He was to be at the disposal of the Reich Commissar, but the Reich Commiss did not have any direct right to issue instructions to the Higher SS and Police Chief. The Reich Fuehrer SS had this right. The appointment as General Commissar for Security was a formality. It was done because the Reich Fuehrer SS wanted the Higher SS and Police Chief to have this title. Originally he was not to be appointed General Commissar.

Q You therefore consider that Seyss-Inquart had no authority over Rauter?

A Yes, well.

Q Very well. In that case I am going to read a document to you, and you will tell me what you think of it, whether Seyss-Inquart had no authority, and you can also make any explanations you choose.

M. DEBENEST: That is document 3430-PS, which has already been submitted as USA 708. This is an excerpt from one of Seyss-Inquart's speeches. It was made in Holland, and it is to be found on page 124 and page 125 of the German text. It will most probably also be found in the Trial Brief of Seyss-Inquart. I am afraid I do not have the exact page, but I think it is page 57 or page 58.

BY MR. DEBENEST:

Q Seyss-Inquart in that speech of the 29th January 1943 said:

"I will give the orders, and they must be carried out by everybody. In the present situation, the refusal to carry out such an order cannot be called anything except sabotage. It is equally certain that we must, more than ever, eliminate and do away with every resistance directed against the struggle for life."

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And further on, we find the following:

"Our husbands, our sons, our fathers are fighting and meeting deaths in the East, with bravery and fortitude, with ut weakening, and they are making the greatest sacrifice, It is unthinkable that we should tolerate conspiracies which seek to render insecure the rear of the front in the East. The person who dares to do that must perish.".

If Seyss-Inquart had had no authority over the police, would he have been abl to make such a speech and say that he would issue the orders?

A I did not say that Seyss-Inquart had no authority over the police. I said only that the orders were given by the Higher SS and Police Chief. The relationship with the police was as follows:

The Reich Commissar could, of course, turn to the police if he needed them in any case, but it was only his wish and not a binding order. In such cases, when it was an important case, the police first consulted the Reich Fuehrer SS, and only if this office approved could a wish of the Reich Commissar be carried out by the police.

Q But the question is much simpler than that, Could he--Yes or No--and did he do so--Did he issue orders in cases such as are mentioned in his speech? He himself mentioned this, you know.

A He could make demands but not give orders.

Q I merely note that you do not agree with Seyss-Inquart's speech. I will now speak to you of another document, and you will tell us how you explain that Seyss-Inquart could only give requests, as you term it, and not orders.

M. DEBENEST: This is F-860, which I submitted yesterday. This document is a letter of Seyss-Inquart which was sent to Dr. Lammers.

BY M. DEBENEST:

Q In this letter he writes that he had wanted to reorganize the Dutch Police in order to adapt it to the German Police organization, and in the same document he states the opinion that the police must be the strongest expression of the interior administration of a country.

That is what Seyss-Inquart says in that document. How can you then co-ordinate your answer with what Seyss-Inquart writes?

A As for this re-organization , this re-organization was not suggest by the Reich Commissar but originated from the police themselves.

The Reich Commissar in this re-organization--and I myself, too--attempted to see to it that the Dutch Police at least would be separated from the administration, which was the case essentially in Germany, and what the German Police in the Netherlands also wanted.

Q You simply are in contradiction with what Seyss-Inquart himself wrote in this document. Very well. How do you explain what Seyss-Inquart wrote further on in the same document:

"I would not like to appoint as president of the Tribunal the Supreme Leaders SS here of the Police for this appointment suggest to the Dutch a limitation of the authority of the Reich Commissar because the Reich Commissar was appointed as the guardian of the interests of the Reich by order of the Fuehrer, but I have myself given to the supreme Chief SS Fuehrer of the Police all plenary p. powers which a magistrate needs."

A Would you please read the first two sentences again?

THE PRESIDENT: M. Debenest, the document is before us, don't you think?

M. DEBENEST: Yes, Mr. President.

THE PRESIDENT: It is not so well to argue with the witness about it.

M. DEBENEST: Well, I will not insist upon it.

BY M. DEBENEST:

Q You saw the document yesterday, did you not, which Counsel for the Defense submitted to you, the interrogatory of Schoengart? How do you explain that Schoengart, on the very morning after the attempt on Rauter, went to Seyss-Inquart and that Seyss-Inquart gave him the order, as he himself states in the document, to take increased measures of reprisal and to execute 200 prisoners, and this with the aim of intimidating the population?

A Yesterday, I believe, I exhausted this subject. I said everything I knew about it.

Q Will you kindly give me the explanation I am asking you to make?

A I said yesterday that Brigadefuehrer Schoengart came to me and presented the matter to me to the effect that the Reich Fuehrer SS had demanded 500 shootings and that Schoengart, on the advice of the Reich Commissar, had succeeded in reducing the number to 200. That is what I said yesterday.

Q You maintain that he received orders from the Reich Commissar then?

A Not from the Reich Commissar, from the Reich Fuehrer.

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Q Yes, I beg your pardon; from the Reich Fuehrer.

A I can only say that Schoengart reported the matter to me in that way. I was not there when he telephoned the Reich Fuehrer SS.

Q Very well. Didn't you yourself take part in a meeting during which hostages were chosen?

A A meeting?

Q Yes--well, a conference, if you prefer.

A Yes.

Q When was that, upon what occasion?

A. I recall that in the Rotterdam case the Reich Commissar had a conference with the General Commissar, and the matter was reported.

Q. Were you present at the meeting with General Christiansen?

A. I cannot say with certainty; I believe I was.

Q. Do you know what Seyss-Inquart said during that meeting, what his attitude was?

A. His attitude was that the intention of theWehrmacht to carry out 50, or, as I heard yesterday, 25 shootings, was impossible. I reported on this yesterday, that the Reich Commissar was able to persuade the Wehrmacht --

THE PRESIDENT (Interposing): This has all been gone over with Seyss-Inquart, has it not?

M. DEBENEST: Yes.

THE PRESIDENT: And with this witness as well?

M. DEBENEST: Yes, Mr. President. I just wished to see whether the witness agreed with a document which I submitted to the Tribunal.

I have finished, Mr. President.

THE PRESIDENT: Do you wish to reexamine, Dr. Steinbauer?

DR. STEINBAUER: (Counsel for defendant Seyss-Inquart): I have no questions to put to the witness, Mr. President.

THE PRESIDENT: The witness can retire.

DR. STEINBAUER: With the approval of the Court, I shall call the witness Dr. Hirschfeld to the stand.

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DR. HANS MAX HIRSCHFELD, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q. Will you state your full name, please?

A. Hans Max Hirschfeld.

Q. Will you repeat this oath after me:

I swear by God, the Almight and Omniscient, that I will speak the pure truth and will withhold and add nothing.

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(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. STEINBAUER:

Q. Witness, when, in May of 1940, the Netherlands were occupied, were you General Secretary of the Economic and Agricultural Ministry?

A. Before I answer your question, I should like to state that I would have preferred to speak Dutch, but in order not to delay the proceedings, I will speak the foreign language which I speak best; I will speak in German.

As for your question, I can say "yes".

Q. In this same capacity, did you direct the affairs of both ministries until the end of the occupation?

A. Yes.

Q. Is it true that the Reich Commissar, in the first conference, told all general secretaries that he expected loyal fulfilment of their duties, but that no one would have to fear any disadvantage if he should resign?

A. I should like to say that the Netherlands general secretaries, who were assigned by the Netherlands Government to remain in the Netherlands, told the Reich Commissar at that time that, in the interests of the Netherlands people, they would remain in office; that is, after they had received approval to do so from the Commander in Chief of the Netherlands Army who, at that time, was the authorized representative of the Netherlands Government. In answer to a question of the Reich Commissar we said yes, under those conditions.

As for his remark about not suffering if we should resign, we answered that that had nothing to do with our decision.

Q. Did the general secretaries who resigned receive their pension? For example, Mr. Tripp, who was president of the Dutch Bank.

A. Yes.

Q. Did the General Secretary of the Interior, Fredericks, remain in office until September of 1944?

A. Yes.

Q. Now we will speak of your own department, Agriculture and Economy. Did the Reich Commissar interfere in the administration of your ministry? In particular, did he release or transfer officials from the Food Service?

A. The Reich Commissar personally did not interfere. His officials attempted to do so several times, but we refused to let them interfere.

Q. A so-called State Political Secretariat of the NSB existed. Did it have any influence on the Administration?

A. According to the order of the Reich Commissar, this State Political Secretariat had no influence on the Netherlands Administration. However, I should like to add that through the appointment of the NSB General Secretaries later, such influence took place in various departments, though not in my department.

Q. Did the Reich Commissar have the head of the Food Service, Laues -- who was know as being hostile to the Germans -- retained in the interest of the food supply for the population?

A. I believe that the Netherlands officials, who had been left behind by the Government, in general had the same attitude as Mr. Laues. However, Mr. Laues was left in his office.

Q. Although it was demanded that he should be removed?

A. This was reported to me by Mr. von der Wense at that time.

Q. When the trade economy was reorganized, was this done by order of the Reich Commissar or by the General Secretary?

A. The reorganization of the trade economy was carried out on the basis of an order signed by me, although there was originally a draft, which was to be signed by the Reich Commissar. I refused this, because I was of the opinion that this was a Dutch affair, and if the order was signed by me the danger of German influence could be avoided.

Q. The Reich Commissar organized agriculture in the so-called Landstand. Did this Landstand receive any executive powers?

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A The Landstand had received no executive powers. I should like to add that, in a personal talk, I advised the Reich Commissar not to form the Landstand.

Q Was the so-called Service Obligation Regulation, or Conscription Regulation, put into force to a great extent, or at all, in the Netherlands?

A As far as I know, the Conscription Order was put into force only to a slight extent in the Netherlands, but more for the deportation of Dutch workers to Germany.

Q In this drive to remove members of the population who were capable of military service, especially from Rotterdam and the Hague -- who carried out this drive?

A What drive do you mean?

Q To remove members of the population capable of military service-- in 1944.

A This drive was carried out by Wehrmacht.

Q Did the Reich Commissar weaken this action, by making exemptions, particularly in your department?

A As for issuing exemptions, or release slips, I heard very little of this at the time.

Q The shipyards and dock insltallations in Rotterdam and Amsterdam were to be blown up. Do you know the attitude of the Reich Commissar on this subject?

A I know only, from statements of the deputy of the Reich Commissar, Woelkers, in Rotterdam, that he objected to these measures, in speaking to the Wehrmacht.

DR. STEINBAUER: Mr. President, I must remark that Woelkers' affidavit has not yet arrived, and that is why I am putting this question to this witness.

BY DR. STEINBAUER:

Q Do you confirm the fact that an action of the Reich Commissar reduced by about 100,000 hectares the area which was to be flooded.

A I know that through the intervention of the Reich Commissar, or his office, the area which was to be flooded was reduced, though I do not know the exact extent. That was particularly in 1933.

Q. You mean 1943. You made a mistake. You said 1933; you meant 1943. Is it possible that this figure of 100,000 hectares is correct ?

A. I recall that it might be about half of what the Wehrmacht had intended to flood at that time.

Q. Is it true that the Reich Commissar, in view of the blockade, changed agriculture over to the production of food ?

A. When in 1940 the Netherlands were occupied by the German invasion, the authorities who concerned themselves with agriculture were of the opinion that a reorganization of agriculture was necessary. The Reich Commissar and his office did not oppose us in this work.

Q. Is it, in particular, true that the high numbers of cattle in the Netherlands were retained ?

A. The livestock in the Netherlands in the period of occupation, to my knowledge, was reduced by about 30 per cent. These measures of reorganization of agriculture made it possible to retain this 70 per cent of the livestock throughout the war. Hogs had been reduced to a much greater extent and it was necessary to slaughter almost all the fowl.

Q. The question of the embargo in 1944 was discussed in detail here. I have one question to put to you, When did you speak to the defendant Seyss-Inquart for the first time in regard to lifting the embargo ?

A. In answering this question, I must go back a little. When the railroad strike was proclaimed, Mr. Laues and I on the 22nd of September, 1944, were visited by von der Wense, who, on behalf of the Reich Commissar told us that he expected that Mr. Laues and I would issue an appeal to the railroad men, in order, in the interests of the food supply for the country, to put an end to the railroad strike, If we did not do so, counter-measures would immediately be taken, in order to place the Netherlands population in the west of the country before a famine, immediately.

We refused to issue such a statement. We told von der Wense that he should report to the Reich Commissar that reprisals against the population in connection with the railroad strike would place responsibility for the famine on the Reich Commissar. That was the decisive talk. Nevertheless, the embargo came into being. Thereupon, protests were issued to the various

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agencies of the Reich Commissar. And on the 16th of October, 1944, the first talk took place in which it was reported that there was the intention to lift this embargo.

Q. Is it true that unfortunately just in this year the frost came earlier than in other years ?

A. Perhaps it came a little earlier than in other years; but in Holland the question of frost is always an uncertain question. The Dutch pointed out -- I did this myself in a press report -- that we always have to expect an early frost.

Q. When the invasion was threatened and a large part of the population was drawn upon to build fortifications, did the Reich Commissar agree to your suggestion that a large part of agricultural workers should be allowed to go home early ?

A. I know of two cases. In the first place, it was a question of workers from the big cities who were sent to the northeastern provinces in order to dig potatoes, and the promise was made that these workers would not be used for fortification work. This promise was kept. At the same time, a large number of agricultural workers who were already being used for fortification work was released for digging potatoes.

Q. I was not able to ask the witness Fischboeck about questions relating to finance. Do you know that Mr. Tripp, who resigned on the question of the foreign currency blockade in agreement with Funk, was left in the bank for international payment ?

A. I recall of this matter that Mr. Tripp intended to resign as a member of the administrative council of the international bank. When this became known, the Germans were apparently somewhat surprised, and Mr. Tripp was asked not to hand in his resignation. I know that he did not hand it in. What reasons there were for this, I do not know from my own experience.

Q. I have two last questions, which are extremely important. An order at the Reich offices under the title "scorched earth" exists. It was issued in March, 1945, for the Netherlands. Docks, dykes, etc. were to be destroyed

Do you know the opinion of the Reich Commissar with respect to this important matter ? Did you speak with him about this question ?

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A. This question was discussed for the first time in a talk which I held on the 14th of December, 1944, with the defendant. In this talk, he told me that in view of military developments, he feared that their request to destroy the West of the country would be received by the Wehrmacht. He spoke to me about it; he discussed to what extent it would be possible to keep the western part of the Netherlands outside of war events.

On the 8th of January, 1945, this conversation was continued. On the basis of this conversation, I attempted to establish contact with London on this question. I did not succeed in obtaining an answer. These reports had to be made by secret radio stations. I did not learn whether it was possible to get the reports through.

Then the Reich Commissar, on the 2nd of April visited me and told me that the "scorched earth" order had arrived, and that he had talked with Speer. Speer had told him that the Reich Commissar did not need to carry out this order in the civilian sphere. But Speer could not speak for the Wehrmacht.

The Reich Commissar had also talked with General Bloskowitz. Bloskowitz had told him, orders are orders, but if a way could be found to avoid this order, he would be ready to do so. Then the Reich Commissar asked me what possibilities I saw. On the 4th of April, 1945, I reported, first in a report to London by telegram. This report reached London. Further conversations followed.

Q. The last question: Did the Reich Commissar, in contrast to the central agencies, establish contact with the agents of the resistance movements to end the war ?

A. A few days after the talk on the 2nd of April, 1945, I had a talk with the deputy of the Reich Commissar, Schwebel. He asked me to what extent the Reich Commissar could have contacted the agents and whether the men designated were the proper men. I confirmed this.

DR. STEINBAUER: I have no further questions.

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THE PRESIDENT: Do any other of the defense counsel want to ask questions?

DR. SAUTER: Dr. Sauter, counsel for the defendant Funk, I should like to ask the witness a few questions.

BY DR. SAUTER:

Q. Dr. Hirschfeld, you said that the former president of the Dutch State Bank, Dr. Tripp, was in the administrative council of the bank for international payments and remained there after he had resigned his office as bank president in Holland. You said so. I should like to know, do you know that the Reich Minister of Economy, Funk, urged the bank in Basel that Dr. Tripp should remain in the International Bank in Basel although Dr. Tripp was no longer authorized to represent Dutch interests?

THE PRESIDENT: How are we concerned with this, Dr. Sauter?

DR. SAUTER: In questioning the defendant Seyss-Inquart by the French prosecution, the fact was brought out that the former president of the Dutch State Bank, Dr. Tripp, was forced to resign, or resigned, and the defendant Seyss-Inquart was reproached with this. As the defense counsel for the defendant Funk, I should like to prove that the defendant Funk took the part of Dr. Tripp as president of the Netherlands State Bank and saw to it that Dr. Tripp was retained in the International Bank at Basel.

THE PRESIDENT: Well, Dr. Sauter, the Tribunal thinks it is so remote and so trivial that really it is quite a waste of time for the Tribunal to listen to this sort of thing.

DR. SAUTER: Then I will ask another question.

BY DR. SAUTER:

Q. Witness, do you know that at the time when Dr. Funk was president of the Reichsbank, the Reichsbank shares in the possession of Dutch capitalists were taken over and that Dutch circles realized that this was done in a fair way by Dr. Funk?

A. As for taking over shares in the Reichsbank, I know nothing at all.

Q. Do you know anything, Dr. Hirschfeld, about how Dr. Funk felt on the question of the treatment of the clearing debts?

A. After the outbreak of the war between Holland and Germany I never

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spoke to Funk. He did not express any opinion at all to me during the war.

Q. Did you not learn from any other source what point of view Funk had on the action to be taken in regard to the clearing debts?

A. I know from various reports and from publications during that time that the Germans represented these clearing debts as actual debts. We, however never believed this; and if one saw the development when this central clearing was organized during the war as an expert on national economics, could realize that these debts could not represent any actual value. In the course of the war they rose to more than 42,000,000,000 marks. The president of the Dutch bank, who was appointed by Seyss-Inquart, in his annual reports compared the Reichsmark to the pound sterling. We in Holland laughed at it.

Q. Dr. Hirschfeld, you just spoke of a president of the Dutch State Bank appointed by Seyss-Inquart. I believe that was Mr. Rost von Tonningen?

A. Yes.

Q. Do you know that the defendant Funk, who was the President of the German Reichsbank at that time, endeavored to prevent the appointment of this Rost von Tonningen and wanted Dr. Tripp to remain in office as president of the Dutch State Bank?

THE PRESIDENT: That is the same question again, isn't it? That is practically the same question as we have already said we did not want to hear about, about Funk's support for Dr. Tripp?

DR. SAUTER: If I may say so, Mr. President, the first time I wanted to ask whether Funk tried to have Dr. Tripp retained on the administrative council of the International Bank in Basel although he was actually no longer competent to represent Dutch interests. You said that that question was immaterial. The present question refers to whether Dr. Funk endeavored to have the Dutchman,,Dr. Tripp, retained as president of the Dutch bank. That is the last question which I have to ask, Mr. President.

THE PRESIDENT: Very well.

THE WITNESS: Yes. I should like to explain this a little. To understand this matter it is necessary --

THE PRESIDENT: Try to be very short about it then.

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THE WITNESS: It is necessary to know that, at the suggestion of the Reich Commissar and Dr. Fischboeck, -- although it was known that we in the Netherlands considered Rost von Tonningen a traitor -- he was promoted. When Tripp was forced to resign, Wohltat, the German Commissar, told me that this matter was discussed in Berlin.

THE PRESIDENT: I think what you were asked was whether Funk tried to get Tripp appointed to the presidency of the Dutch Bank when this other man was appointed by Seyss-Inquart. Do you know?

THE WITNESS: I only know from Wohltat that Funk attempted to do so and that Goering made the decision in another way at the suggestion of the Reich Commissar and Dr. Fischboeck.

BY DR. SAUTER:

Q. Anyway, you confirm that Funk attempted to have the Dutchman, Dr. Tripp, retained as president of the Dutch State Bank?

A. I presume that on the basis of a report from Wohltat.

DR. SAUTER: I have no more questions, Mr. President.

THE PRESIDENT: Is there any cross examination?

BY M. DUBOST:

Q. Of what nature were the orders which the Dutch government left you when the government left for England?

A. There were written instructions by the Dutch government for all Netherlands officials of the administration. These instructions were based on the Hague rules for land warfare.

Q. But these orders therefor did not imperil the German Army?

A. No.

Q. Will you then please explain, if you are capable of doing so, why Holland had an exceptional regime, since immediately after the invasion Holland had a Gauleiter, which was the case for Holland alone in all the western countries?

A. We had the appointment of a Reich Commissar who was chief of the civilian administration in the Netherlands. We considered this appointment to

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that the German government had political intentions in the Netherlands and not purely the intentions of an occupying power.

Q. In your opinion, it was, therefore, because the German government had the intention of modifying the national Dutch institutions in spite of common law; and on the morning after the invasion Seyss-Inquart was appointed?

A. We were convinced -- and this was confirmed by experience -- that all possible National Socialist arrangements would be introduced in the Netherlands, and that attempt was made in fact.

Q. This attempt was made?

A. Yes.

Q. Is it exact that during the occupation a great number of the members of the Dutch National Socialist party were at the head of the police and executed German orders for arresting Jews as well as hostages or members of the resistance movement?

A. Yes.

Q. Did the Dutch police itself, when it became mixed up with these arrests, did it do so because it was forced to do so?

A. The conditions were such that old Netherlands policemen, if they ever took part in such matters, they did so because they were forced to; but there were policemen who had been appointed by the German authorities. They were, in general, members of the NSB, and they, in part, volunteered for such malodorous tasks.

Q. Is it exact that the wives and children of the Dutch police were taken as hostages, wives and children of those members of the German police who refused to carry out German orders?

A. I know that in various cases the families were taken as hostages when police officials refused to carry out orders. It is further known that this did not happen only in the case of the police, but also in other cases.

Q. It has been alleged here that the diamonds taken at Arnheim had all been found in Holland. That was stated by the witness Wimmer.

A. What was stolen at Arnheim?

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Q. The diamonds.

A. The matter of the diamonds is a typical example of how they wanted to deal with such property. These diamonds were in a bank safe in Arnheim. After the invasion in Normandie attempts were made by the Germans to seize these diamonds. The director of the Netherlands agency which is concerned with diamonds and later, I, was asked for the keys to the bank safe. We refused. And then on the day of the airborne landings at Arnheim, the German Wehrmacht blew up this safe. Apparently only half of the diamonds were found and they were sent to the Reichsbank in Berlin. When I protested, Fischboeck said that they had only been put in the custody of the Reichsbank in Berlin. Then I demanded that these diamonds should be given back. Meanwhile, it was learned that half of the diamonds were still in Arnheim.

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The Devisen Schutz Kommando, the Currency Protection Command, again demanded the keys which were in my personal possession. I refused. I had another talk with Fischboeck. The matter was obviously distasteful to him. He would give us this concession, that the remaining diamonds, which we later found in Arnhem, be returned to the owners, but the half which had been sent to Berlin they were willing to give back only if they could be placed under German lock in a bank in the Eastern Netherlands.

I demanded that they be turned over without restrictions. Apparently Fischboeck could not agree, and for this reason, after the liberation of the Netherlands, these diamonds were not given back and as far as I know they have not yet been returned.

Q Did Seyss-Inquart return the goods of the Jews who were deported to Theresienstadt?

A As to the Jews who were deported to Theresienstadt, I know that these people, on the basis of a promise given to my colleague Fredericks, were to be given special treatment, but that their property would be given back is not known to me and I do not believe it.

Q Was that property returned to them, the property that had been confiscated?

A I did not hear that what had been confiscated was returned to them.

Q Seyss-Inquart said in December 1941 400 Jews had been transported from Amsterdam to Mauthausen as a measure of reprisal for the fact that a member of the NSB was supposedly murdered at Amsterdam by Jews. What do you know about this?

A I know that in February 1941 there were two difficulties in Amsterdam. One difficulty referred to shipyard workers. I believe 3,000 of them were to be forcibly sent to Germany. I intervened with Seyss-Inquart and succeeded in preventing this, but there was excitement in Amsterdam. In the second place, Jews were already being arrested in Amsterdam, which was the occasion for a strike.

The incident of these 400 Jews of whom you speak took place after this strike in Amsterdam as far as I recall, because they wanted to make the Jews responsible for the strike. I said that I did not believe it, that this was

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an excuse.

Q If I have understood you correctly, these Jews were arrested because the population at Amsterdam was opposed to their deportation. There were demonstrations in the streets, during which several members of the NSB were killed. These Jews were therefore not deported in reprisal for the murder of the members of the NSB; quite the contrary. The men of the NSB were killed at the time when they were going to arrest the Jews, before there was any idea of reprisal.

A I recall that in those days the Amsterdam workers resisted when the Jews were being arrested, and this led to upheaval in Amsterdam and to this strike. Exactly what happened I do not know from my own experience.

Q Did Seyss-Inquart permit ration cards to be given to workers who did not submit to being removed to Germany?

A When the so-called age groups were called up for labor commitment in Germany, on the 6th of May instructions were sent to the competent Netherlands authorities announcing that workers who were called in these age groups could no longer receive any food cards. That was a decree of the 6th of May 1943, signed by an official of the Reich Commissariat by the name of Hofge.

We received this instruction, and although it reached us when martial law was in effect, the instruction was not carried out by the Netherlands authorities. What the German authorities said, in effect, was, "Whoever does not work for Germany gets nothing to eat."

Q Seyss-Inquart pretended that the Dutch people who left to work in Germany up to 1942 were all volunteers. Is that correct?

A No, they could not all be volunteers. The unemployed in the Netherlands received compensation, and shortly after the occupation instruction were issued that people who were suited for work in Germany and refused to volunteer for this work could no longer receive unemployment compensation. Thus, they were under economic pressure.

Q Much has been said here as to whether Rauter was subordinate to Seyss-Inquart. Could you inform us on this?

A To our knowledge in the occupied territories, Rauter was appointed

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by Seyss-Inquart at the beginning of June 1940 as General Commissar for Security. No order which was then known indicated that Rauter had any kind of special position. The decree of the German Reich Chancellor of the 18th of May 1940 indicated to us Dutch that the Reich Commissar was the only responsible man in the Netherlands for the occupying power in the civilian sphere.

Much later, from talks, I and perhaps others who were better informed, realized that Rauter received direct orders from Himmler or from the Reichs Sicherheits Haupt Amt, the Reich Main Security Office. The population of the Netherlands could not know this.

Q Without doubt you know the result of the abolition of the monetary frontier and its repercussion on life in Holland.

A Yes. I will try to describe this matter in a few words. At the outbreak of war, there was a clearing agreement between the Netherlands and Germany. We Netherlands officials, at the beginning of the occupation, were able to exercise special control for deliveries of goods and such to Germany, because there was not only border control by customs officials, but we could also control payment.

It was disagreeable to Fischboeck that Dutch authorities could regulate the matter. This was the occasion for friction. He attempted to remove this clearing, and on the first of April 1941 the foreign currency border was removed, and thus all goods could be bought in the Netherlands for Reichsmarks, and under the protection of the German authorities they could be taken to Germany.

I will give an example. According to an investigation which I ordered at that time, there were a few hundred buyers of jewelry and gold and silver in the Netherlands. These articles are easy to carry with one. If there had been control of payment, it would not have been possible that in 1942 alone 80 to 100 million guilden of such goods was taken away to Germany. The important point was that by lifting this control of currency, one could operate more freely. Furthermore, there was a possibility of buying Dutch securities on the Amsterdam stock exchange.

One of the German aims at that time was to tie Netherlands and German

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economy together. The easiest way to do this was to lift the currency control between the occupied territories and Germany, and thus Netherlands interests were damaged more severely than those of other occupied territories where their currency control was retained.

I should like to add that of course ways were also found there to carry out this exploitation. The lifing of the currency control made the German policy in this connection much easier. This was clearly shown by an order of Hermann Goering of 1942, in which the control of the Netherlands-German border was abolished and the man responsible for the Four Year Plan could write that there could be no control at the border when price regulations or rationing regulations were broken. That was what Hermann Goering added.

THE PRESIDENT: M. Dubost, the Tribunal thinks that this should be shortened, this discussion of the question of the abolition of the frontier policy for money.

M. DUBOST: I have no more questions on this point, Mr. President.

BY M. DUBOST:

Q What amount of money did Holland have to pay Germany for the cost of occupation?

A The total sum which was paid at the end of the occupation was 8½ billion gulden.

Q How were these payments demanded?

A This 8½ billion gulden consisted of credits which the Wehrmacht demanded for the direct occupation costs in the Netherlands; furthermore, for the cost of the machinery of the Reich Commissariat, and third, payments which were imposed on the Netherlands under the expression which was used at first, "outside occupation costs", that is, costs which the Wehrmacht had in Germany in the interest of the occupation forces in the Netherlands.

The form in which it was paid as far as it concerned payments in the Netherlands was Dutch payments in Germany. They were in gold, which was demanded at the Netherlands Bank, and payments from the property which the Reich Netherlands Bank had in the Reichsbank.

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Q But were these payments the result of one of these conditions?

A I noted the capitulation conditions of May 1940 which did not mention occupation costs.

Q What is the damage sustained by Holland, following the looting of the means of production, such as stocks, machinery, ships, and so forth.

A It is extremely difficult to give an exact figure because in a period of occupation, it could not be figured out. But, after the German capitulation, the Netherlands Government applied to the Repatriation Committee in Paris, and reported the sum of 25,000,000,000 gilders as damages for occupation. This would include 8,500,000,000 occupational costs which I mentioned.

THE PRESIDENT: Isn't this all contained in the Dutch report?

M. DUBOST: Oh no, Mr. President, certainly not.

BY M. DUBOST:

Q How did Seyss-Inquart's attitude change during the occupation?

A I should like to make a clear distinction in regard to his point of view after the fall of 1944 and in the first four-and one-half years. After the fall of 1944 he was much more interested in the Netherlands' interest than previously.

Q Before being the General Secretary of the various administrations which you administered during the German occupation, you were head of the Foreign Trade in Holland, and as such you were present at International negotiations and in particular, you negotiated with the representatives of Germany about economic questions concerning Holland. You therefore know Schacht?

A Yes, I believe I first met Mr. Schacht in 1933 at the World Economic Conference in London.

Q During your negotiations with Schacht, were you not led to ask him to restrict the re-armament of Germany which was ruining her credit?

A If I am to answer this question, I must go back to a talk in 1936

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when I was in Berlin. Mr. Schacht spoke on the basis of Trade Treaty negotiations. In this talk, the international financial situation came up because there were various currency evaluations at that time, theFrench franc, the Swiss franc, and the Dutch gulden and the situation of German currency was discussed. Schact, when I voiced my criticism, siad, "How would you do it?"

I said I could only give him my private opinion, then I asked if Germany which was being discussed at that time, should take up more international loans, and if so, whether Germany would be ready to take the consequences if theinterests and amortizations meant that the importation of raw materials would be reduced, and if so, that this would have an unfortunate effect on the employment and on the re-armament. Would Germany be willing to accept such consequences? If so, in my private opinion in 1936, it should be international loans. If not, then such a discussion would have little point.

Then Schacht gave me his opinion. That Germany needed re-armament, in order to be equal to the other great powers in international politics. Only on such a basis could one negotiate. And Schacht said to me in his own ironical way, "I want a big and strong Germany and to achieve that, I would even ally myself with the devil."

In the course of this discussion, Schacht asked a few questions. First, he wanted to clear up the currency question, and then he wanted to clear up the colonial question. On the colonial question, he said to me that in his opinion, it was possible for Germany to take on the colonies again, and to adopt the attitude not to arm these colonies, or not to set up any naval bases there. If such a policy was to be taken up, he believed thatGerman economic and foreign policy could be changed. Then Schacht told me that he did not approve of the anti-Semitic tendency in Germany. He gave me examples of his attitudes toward anti-Semitism. He rejected it. I may add one example here that he gave me, an example of a certain Kades, who was Prime Minister of Brunswick.

That is of no interest whatever. Schacht told you he had defended the Jews.

Now, about this staff, the General Staff. Wasn't it the General Staff who gave the order to have these raids carried on in Rotterdam?

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DR. LTERNSER: Mr. President, if I understood the question correctly, the witness was asked about the charges against the High Command. I object to this question for the following reasons:

As Defense Counsel for the General Staff and the OKW, the decision of the court promulgated on the 8th of June, prohibited the questioning of witness or cross-examination of witness..... If I am not allowed to question witnesses, then the Prosecution must not be allowed to question them since the rules must be the same for Prosecution and Defense.

M. DUBOST: I therefore will forego my question.

THE PRESIDENT: I didn't hear what you said.

M. DUBOST: I said, Mr. President, that I will forego my question about the General Staff, and I have two more questions about Seyss-Inquart.

THE PRESIDENT: Go on, M. Dubost.

BY M. DUBOST:

Q. Did Seyss-Inquart give the order to have raids carried out in all the large Dutch cities?

A Not to my knowledge.

Q. Who gave these orders for the round-ups to be carried out? Who gave these orders?

A These raids were carried out by the German Wehrmacht. From whom the orders came I don't know. It is only known that in Rotterdam, this raid -- I believe it was on 11 November 1944 -- was carried out by the divisional commander in Rotterdam, who held a speech in the town hall on the subject, and, of course, this raid.

Q. But, didn't Seyss-Inquart have children from the children's hospital taken away for work in Germany?

A The question is not clear.

Q. Was it Seyss-Inquart who had the children taken away from the children's hospital and sent them to work in the service of Germany?

A From my own experience I know nothing about this.

Q. Children who were recalled by soldiers in certain of the SS units, did all of this take place on Seyss-Inquart's orders?

A I know that the SS in the Netherlands recalled soldiers. As far as I know from the newspapers, bulletins and handbills, it was always done by the SS as such.

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Q. Who pledged himself not to use chemical products made in Holland for war? Was it Seyss-Inquart who had pledged himself not to do so?

A. I beg your pardon.

Q. Who had pledged himself not to use for warfare the chemical products made in Holland and to have themreserved only for Dutch agricultural purposes?

A. This is the question of the nitrogen fertilizer.

Q. Yes.

A. As for the nitrogen fertilizer, from the beginning the promise was made that the nitrogen fertilizer in the Netherlands would only produce artificial fertilizer. This was done already in the middle of August, 1944, when instructions came that the nitrogen fertilizer industry was to change its production over to explosives. These instructions had been issued by an office of the Reichs Commissar. It was signed by a certain Mr. Brocke.

Thereupon, after I had spoken to an official of the industry I attempted to speak to Seyss-Inquart personally on this matter and to intervene. I was given the answer by his adjutant that he had already made his decision and that I could establish contact with Viebich, the representative of Speer in theNetherlands. I discussed the matter with Viebich and told him that theNetherlands industry and the Netherlands labor could not work on explosives.

THE PRESIDENT: M. Dubost, can't this question be answered a little more shortly? The question is, did Seyss-Inquart promise that chemicals should be used, I suppose on the land in Holland and not for purposes in the Reich? isn't that the question?

BY M. DUBOST:

Q. You have heard what Mr. President has said. Will you kindly try to answer more briefly?

A. We had the promise that only artificial fertilizer would be produced. Then the demand was made to produce explosives.

THE PRESIDENT: M. Dubost, we don't want it all again. Can't you get the question answered?

M. DUBOST: I didn't understand the answer of the witness, Mr. President. It didn't come through.

THE PRESIDENT: Well, we will adjourn.

(A recess was taken)

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M. DUBOST: With the permission of the Tribunal, I shall ask two or three questions.

BY M. DUBOST:

Q Witness, do you know under what conditions and for what reasons the newspaper at the Hague was destroyed by the commissioners of the Reich?

A Yes.

Q Can you tell us?

A Yes. The newspaper at the Hague was destroyed because the workers of the paper refused to publish an article which spoke against the railroad strike, an article which had been compiled by the Reich Press Section. That was the reason for refusing to publish it.

Q It was destroyed by means of dynamite, was it not; the buildings and machinery were blown up, were they not?

A The equipment was blown up; yes, with dynamite.

DR. STEINBAUER (Counsel for defendant Seyss-Inquart):

I have no further questions to put to the witness.

THE PRESIDENT: The witness can retire.

DR. STEINBAUER: Now, with the permission of the High Tribunal, I should like to call my last witness to the witness stand, Ernst Schwebel.

ERNST AUGUST SCHWEBEL, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name, please?

A Ernst August Schwebel.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. STEINBAUER:

Q Witness, what functions did you have before you assumed service in the Netherlands?

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A I was Oberverwaltungsgerichtsrat at the Administrative Court.

Q When did you come to the Netherlands?

A On 18 May 1940.

Q Is it true that, beginning with June 1940, you were the delegate or plenipotentiary of the Reich Commissar in the province of South Holland, including the cities of the Hague and Rotterdam?

A Yes.

Q In this capacity, as plenipotentiary for this province, did you have constant contact with the Dutch administrative authorities in this province and with the local authorities?

A Yes.

Q Do you know how many of the mayors in the province were left in the office -- left from the Royal regime, that is?

A At the end, about one half to two thirds.

Q Did the Reich Commissar leave the officials of the province and of the local government, or did he change them?

A No, he made but few changes -- very few. Shall I discuss these changes?

Q Yes, but briefly. Perhaps you can just cite the reasons for the changes.

THE PRESIDENT: Dr. Steinbauer, the changes have already been stated by other witnesses, have they not, and have not been cross-examined to. Is that right? Did not Seyss-Inquart state the changes, and they were not cross-examined to?

DR. STEINBAUER: Then I shall turn to another question.

BY DR. STEINBAUER:

Q Is it true that in the second half of the year 1944 a state of emergency was declared?

A Yes, on 4 December, to the extent of 30 kilometers.

Q And the security powers were turned over to the Wehrmacht?

A Yes, but this transition did not take place on the basis of the regulation declaring this state, but for military reasons.

Q On the basis of military developments?

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A Yes, on that basis.

Q Is it true that at the beginning of the year 1945 special commandos of the Reich Fuehrer SS Himmler began to place time bombs in the public buildings of your province, just in case of an evacuation of this territory?

A As far as these special commandos of Himmler's were concerned, I know nothing about them. I know only one case in which an Oberleutnant appeared, but I believe that that was prior to the time you mentioned. He wanted to take such steps. I immediately got in touch with the Reich Commissar and the Commander in Chief of the Wehrmacht, and I learned that no one of the gentlemen there knew anything about anything of this nature. Then, on the request of the Reich Commissar, this Oberleutnant was told to cease his activity and to take up the bombs which he had already planted and put them away again and to leave immediately. I know of no other cases like that.

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Q Do you know that disturbances arose in the Gau on the basis of the so-called drive for those who were fit for military service, to take them into the Reich?

A Yes; the Wehrmacht was carrying through this drive at the time. They had a delegate of Minister Skubi's, in his capacity as Reich Commissar for Total Warfare. This man had been in the Gau, and special afencies had been set up in the provinces. The director of this agency in the Gau carried these matters through incorrectly; he carried them through rather harshly.

Thereupon I discussed this matter with the Reich Commissar, and he immediately got in touch withthe commanding general and had this officer replaced immediately.

Q Do you know anything about the fight with the resistance movement in your province?

A The resistance movement was combatted through the Security Police in connection with the Wehrmacht. What I know is not from my own experience in administration, but, rather, it is knowledge I received through my connection with these agencies. From those sources I know that the resistance movement approached 50,000, perhaps; that is an estimate. These were people who were to be apprehended. By that I do not mean that they were people who were acting constantly or who were organized in any way.

Q Do you know that the Reich Commissar started a food drive for 200,000, Dutch children?

A Yes, I know that he introduced this step.

Q You were an eye and ear witness of the attempt on the part of Seyss-Inquart to end the war prematurely. Will you tell us briefly how connections were carried out with the representative of the General Staff Officer of Eisenhower?

A In the beginning of April, in the year 1945, Mr. von de Flicht approached me. He was the leader of the so-called IKO. That was an allied church council for the support of food problems.

Q Witness, please speak slowly, and a little more clearly. I cannot understand you even in the German language, which you are speaking.

A I was approached by Mr. von der Flicht, who was the director of an inter-church group, which wanted to supply the population with foodstuffs. I

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knew him because of that. He told me that he was acting on behalf of the Dutch Government in London. He put the question to me whether the Reich Commissar would be ready to negotiate with him--that is, von der Flicht. Three questions were mentioned which he wanted to discuss: First, a more extensive food supply for the Netherlands people through the Allies; secondly, the stopping of floodings; and third, the stopping of the combatting of the resistance movement.

I immediately got in touch with the Reich Commissar and he immediately declared himself ready. Then, two days after that, we dealt with Mr. von der Flicht and another representative.

THE PRESIDENT: Witnessm the yellow light means that you are going too fast, you see. So, when you see the yellow light, go a little more slowly.

THE WITNESS: Yes, sir.

THE PRESIDENT: You were telling us what Seyss-Inquart did.

A(Continuing) Yes. Seyss-Inquart declared himself ready to negotiate about these questions immediately. A discussion then took place between us and Mr. von der Flicht and another representative of the Dutch Government in London. That was Junker. That is, this discussion took place among the four of us.

On this occasion we agreed, first of all, about one point, to the effect that any combatting of the resistance movement was to be stopped, and the resistance group, on itspart, was to dispense with sabotage.

Secondly, the Reich Commissar declared himself ready to see that a generous supplyfor the population would be taken care of, and to stop the floodings. However, there were to be more detailed negotiations.

The outcome of this discussion was carried over to London, and we had two Dutch people transported to London. Then, after there had been negotiations pro and con, we received an inquiry from London as to whether the Reich Commissar was ready to work with the Commander in Chief, General Eisenhower, and deal with him about these questions. The immediate answer was "yes".

Thereupon, first of all, on the 26th of April, I crossed the front line at Ammersford, and there I briefly negotiated with General Sir Francis Gengard, who was the Chief of the General Staff of Field Marshal Montgomery.

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Thereupon, first of all on the 26th of April, I crossed the front line at Ammersford, and there I briefly negotiated with General Sir Francis Gengard, who was the Chief of the General Staff of Field Marshal Montgomery.

THE PRESIDENT: You don't need any more detail about it, do you?

A (Continuing) On that occasion we determined and agreed that another discussion was to take place two days following.

BY DR. STEINBAUER:

Q Witness, we are not really concerned with the details. We are concerned with the results of this conversation, and how it worked out to the interests of the Dutch population.

A Yes. This discussion took place on the 30th of April, between the Reich Commissar and the Chief of the General Staff of General Eisenhower, who was General Beedle-Smith. In this discussion the Reich Commissar agreed completely to the wishes of General Beedle-Smith. A very generous supply for the Dutch population--

THE PRESIDENT: (Interposing): If he said he agreed with the demands of General Beedle-Smith, surely that is all you want, isn't it?

BY DR. STEINBAUER:

Q What you have told us is quite sufficient. I should like to ask you this. Through these negotiations the was was ended two months prematurely, was it not?

A You cannot say that exactly. The situation was as follows. For the Dutch population, of course, on that day, the war ended in practice, because the welfare work could take place through the air, over highways, over canals, and rivers and lakes, to Rotterdam. This supply and health work was very generous, and, in order for these transports to take place, there had to be an armistice.

This actually did not formally take place, but in fact we did have an armistice, and the population, at that time, immediately had the benefits of it.

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DR. STEINBAUER: Mr. President, I have no further questions of this witness.

THE WITNESS: May I just make a few remarks, Mr. President?

THE PRESIDENT: If counsel has finished examining you, we do not want any more remarks.

Do any other counsel wish to ask questions?

(No response)

THE PRESIDENT: Is there any cross examination?

CROSS EXAMINATION

BY MR. DEBENEST:

Q Witness, you spoke a short while ago of the negotiation s which you undertook with delegates ofthe government London. Are you aware of the fact that these delegates, before undertaking the negotiations with the Reich commissar in April, 1945, laid down as a condition that no more people would be shot by any German person having civil or military authority unless that person was first judged by a proper court?

A Yes.

Q As a further question, did those delegated not request the Reich Commissar whether the SS would conform to the conditions of an accord which would put an end to the hostilities?

A Yes. That actually took place. After that time, nothing was undertaken against the resistance movement; no steps were undertaken. Nothing was undertaken there against the resistance movement from that period of time.

Q Very good. Is it correct to say that the Reich commissar replied, in his capacity of Obergruppenfuehrer of the SS, that he was in a position to impose upon the SS, and to assure himself that they would observe the conditions of this accord, and that he could answer for it?

A An agreement in its true sense, on these conversations--

Q (Interposing) No, no, wait a minute, please. I am asking you whether the Reich Commissar made that reply to the negotiators; that is, the delegates of the London government?

A He said he was Obergruppenfuehrer of the SS as well, and in that capacity he was to see to it that the SS would comply with this agreement.

Q I thank you. The last question is this: Did you know a Kiehl?

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He was a functionary of the Reich government -- K-I-E-H-L?

A Kiehl?

Q Kienl

A K-I-E-H-L?

Q K-I-E-H-L.

A Yes, I know him.

Q In April, 1945, he received instructions to flood the Weeringer Meer.

A Mr. Kiehl, to my knowledge, did not give out any directions. Mr. Kiehl was an expert on water works, and he was a very good expert. But orders for the flooding could be given only by the highest military authority, and that was General Blaskowitz.

DR. LATERNSER: (Counsel for the General Staff and the OKW): Mr. President, I object to the questioning of this witness. The prosecution is using this testimony again to charge and accuse the OKW. In the objection I mentioned previously, I said that if I may not question the witnesses to exonerate, then the other side should not be permitted the corresponding right, either. I ask that the last statement be stricken from the record.

M. DEBENEST: I beg your pardon?

THE PRESIDENT: What did you say, M. Debenest?

M. DEBENEST: Mr. President, I merely wanted to say that if I asked this question, it is following the information that was given to me, where there was no question of the army, but of the instructions that were given by a civil servant of the Reich commissar. Therefore, I do not understand the interjection of the counsel,

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and I did not kno. by any means whether the witness was going to tell me whicher the Army was responsible when I was talking of the Reich commissar.

THE PRESIDENT: Yes. You may ask the question.

BY M. DEBENEST:

Q. Will you proceed?

A. Mr. Kiehl was the hydrostatic engineer for the Reich commissar. But at the same time, he was a hydostatic engineer under the Wehrmacht commander-in-chief. He belonged to both of these agencies, but as an expert only. However, he was a very fine expert. But he could not give any instructions or orders.

Q. Please answer directly yes or no. Yes or no, did Kiehl transmit the order to flood the Veeringer Meer?

A. Mr. Kiehl? No. He could not have done that.

Q. I am not asking you whether he gave the order; I am asking whether he transmitted this order.

A. I know absolutely nothing about that. I do not know how far Mr. Keihl was involved in this order.

Q. You do not know, therefore? That is sufficient.

What was the interest at that time in flooding the Veeringer Meer? Did not people think that the war was over?

A. No. When the Veeringer Meer was flooded, the war had not been concluded, and these agreements had not been concluded, either. When the Veeringer Meer region was flooded -- and I found this out from military men -- there was the danger that an aerial landing at the terrain of the Veeringer Meer would take place, and there would be a union so that Friesland and North Holland would be connected, and it would be in enemy hands. That was the reason why military authorities considered this flooding necessary, and that is what I was told.

Q. But was it the war considered as being lost for Germany in Holland?

A. No. At that time, it was not considered lost. At any rate, we had an army which was defending us; and it still had its orders to defend, and had to carry out that order to defend. There was the danger that this landing

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would take place.

M. DEBENEST: That suffices. I have finished, Mr. President.

REDIRECT EXAMINATION

BY DR. STEINBAUER (Counsel for the defendant Seyss-Inquart):

Q. I would not have to put another question to you if the French prosecutor had not broached a certain subject. What did General Bedell Smith tell you about the flooding of the Weeringer Sea?

A. General Bedell Smith said at this negotiation, towards the end of the negotiation, anything that has been undertaken in the line of flooding can be justified on the military basis and on the basis of military necessity. But no more floodings are to be undertaken from now on.

Q. Was any undertaken after that?

A. No, none was undertaken thereafter.

DR. STEINBAUER: Mr. President, I have no further questions of this witness.

THE PRESIDENT: The witness can retire.

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DR. STEINBAUER: Mr. President, in this way I have concluded my examination of witnesses. Now I should like to refer to those documents which are contained in my document book which I have submitted to the High Tribunal. I was notified that the document book No. 3 has been submitted and put at the disposal of the High Tribunal.

To conclude my case, I should like to submit another document, to have the number 91, concerning the apostolic letter of the Catholic bishops, concerning the plebescite in Austria. In this apostolic letter, the attitude of the Gauleiter Buerck is referred. We can gather from it that the persecution of the churches cannot be charged to Seyss-Inquart, but rather the responsibility is to be placed on Buerckel.

In order to save time, I should like to ask that the High Tribunal take judicial notice of this document without my reading it.

THE PRESIDENT: Yes.

DR. STEINBAUER: Herewith I should like to conclude my presentation of evidence.

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THE PRESIDENT: Dr. Steinbauer, have you offered all the documents that you want to offer in your books? Have you offered them as evidence?

DR. STEINBAUER: I did not understand the question.

THE PRESIDENT: Have you offered all the documents that you want to offer as evidence and given them exhibit numbers?

DR. STEINBAUER: Yes. Yes, Mr. President. Only a few affidavits are lacking, affidavits which were admitted by the High Tribunal: Voelkers', Bolle's and Reuter's. I am hopeful that we shall have these affidavits within a very short period of time.

THE PRESIDENT: Well, Dr. Steinbauer, you see you must offer each of these documents as evidence; you must say so. Merely putting them in the book doesn't offer them as evidence and, therefore, you must offer these things to us as evidence, if you wish to do so, giving them a number. You can offer them all together, saying you offer --

DR. STEINBAUER: Yes, Mr. President.

THE PRESIDENT: Do you wish to offer your documents Nos. 1 to -- I don't know what the last number is. 105 seems to be the last one.

DR. STEINBAUER: Yes, Mr. President. I ask that the numbers in my document book be included up to 107.

THE PRESIDENT: Dr. Steinbauer, are the numbers given in the books the exhibit numbers which you wish to give to the documents?

DR. STEINBAUER: Yes, Mr. President. They are in consecutive numerical order and they are found in my document book.

THE PRESIDENT: You wish, then, to offer Nos. 1 to -- whatever the last number is, as evidence. Is that right?

DR. STEINBAUER: Yes, Mr. President.

THE PRESIDENT: You offered some in the course of your presentation of the witnesses.

DR. STEINBAUER: Some of them I submitted and quoted according to the numbers given in my document book, Mr. President.

THE PRESIDENT: You now wish, then, to offer the remainder?

DR. STEINBAUER: Yes, the remainder as well.

THE PRESIDENT: Under the numbers which they bear in your document bo

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DR. STEINBAUER: Yes.

THE PRESIDENT: And you are offering all the originals under those numbers?

DR. STEINBAUER: Insofar as they are in my possession and I can say that the extracts and excerpts coincide with the documents.

THE PRESIDENT: You have certified that they are true copies of the originals in accordance with the Tribunal's rules?

DR. STEINBAUER: Yes indeed, Mr. President.

DR. FRITZ: Dr. Fritz, on behalf of the defendant Fritzsche.

Mr. President, I ask the permission of the High Tribunal that the defendant Fritzsche be absent Monday and Tuesday of next week. He requires this time for the preparation of his defense.

DR. FLAECHSNER: Dr. Flaechsner, on behalf of defendant Speer.

Mr. President, I wanted to put the same request on behalf of my client as he will be the next to be up on the witness dock, and I ask that he have permission to be absent Monday and Tuesday.

DR. LATERNSER: Dr. Laternser, on behalf of the General Staff and the OKW.

Mr. President, I shall need but a very brief period of time, but I must make an especially important motion, a motion which concerns procedure, and I should like to give the reasons for my motion.

I move that the High Tribunal, first of all, rescind the resolution given on the 8-6-46, Point 2 --

THE PRESIDENT: Dr. Laternser, if your motion is an important motion, it should be in writing. If it is not in writing, it must be put in writing. You know perfectly well that is the rule of the Tribunal.

DR. LATERNSER: Mr. President, it is very important to me that this motion of mine appears in the record. May I continue?

THE PRESIDENT: It will appear in the record if you make the motion in writing. You have been here for many months and you know perfectly well what the rule of the Tribunal is, that motions be made in writing.

DR. LATERNSER: Yes, indeed, but since we are concerned with a motion which applies to procedure and which applies to an orally given resolution, I

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believe I am justified in putting my motion in this manner.

THE PRESIDENT: No, I don't think so. The Tribunal would wish to have your motion in writing in accordance with the rule of the Tribunal.

Now the Tribunal will continue with the case against the defendant von Papen, which I believe is next.

DR. KUBUSCHOK: I am beginning with my presentation of evidence on behalf of my client, von Papen, by calling the defendant von Papen as a witness.

FRANZ VON PAPEN, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name, please?

A Franz von Papen.

Q Will you repeat the oath after me:

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I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. KUBUSCHOK:

Q Please give the High Tribunal, briefly, a picture of your life, emphasizing especially the period of time in which you entered politics.

A In order to describe my life briefly, I shall emphasize only those points which to me seem essential for the High Tribunal to form judgment of my personality and how they influenced my life and my political attitude and opinion.

I was born on soil which has been in the possession of my family for nine hundred years. I grew up in a conservative home on conservative principles whichunite a personmost closely with his home soil and with his people. Since my family for a thousand years has been a support and a bulwark of the church, I of course grew up inthis tradition as well.

I was the second son and I was to enter a military career. At the age of eighteen I became a lieutenant ina cavalry regiment and I went --

THE PRESIDENT: I don't think you gave us the date of your birth.

Q Please give the date of your birth.

A The date of my birth is the 29th of October, 1878.

THE PRESIDENT: You have told us you joined a cavalry regiment at the age of eighteen.

A Important for my development --

DR. KUBUSCHOK: There may be a misunderstanding. At the age of eighteen he entered it. Not in1918, but at the age of eighteen.

THE PRESIDENT: Yes, I said so.

A Important formy development was my marriage with a daughter of a Saar industrialist, Geheimrat von Koch. The relatives of this family brought me in contact with many French and Belgian families and through that I gathered an intimate knowledge of the spiritual and cultural factors of neighboring countries. All of these factors made a very lively and vital impressionon me, and beginning with this period of time -- that is since

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1905 -- I have been convinced of how wrong a certain political attitude can be, namely, that France and Germany had been considering themselves mortal enemies. I felt howmuch these two peoples had to offer each other on a mutual basis, and especially if their peaceful development was not hampered.

In the years that followed I graduated from the Kriegsakademie, war academy, and in 1913, after I had had training for five years, I was taken into the General Staff. At the end of 1913, at the command of His Imperial Majesty, The Kaiser, I was appointed Military Attache at Washington and Mexico. In this capacity, in the summer of 1914, I accompanies the U.S.A. Expeditionary Corps, which was dispatched to Vera Cruz because of the incident at Tampico. In Mexico, I was surprised at the outbreak of the First World War. Until the end of 1915 I remained at my post in Washington.

This period is of comprehensive significance to my political life. Our war, which was carried on with legal methods against the unilateral supplying of our enemies with war materials, led to a heated propaganda. This propaganda, which was fostered by the enemy, as far as the military attaches of Germany were concerned, tried to cast suspicion upon them at all cost and by all means, to accuse them of illegal acts and especially of having organized acts of sabotage.

At the end of 1915 I left the United States. I regret to say that I never tried to rectify and correct this false propaganda, but this propaganda followed me until the '30s and even until today and it impressed its stamp upon me. In order to cite just one example, even after 1931, the Lehigh Valley Company stated before the Mixed Claims Commission that their claim against the German Reich, in the amount of $50,000,000, was justified, and that I, the German Military Attache, had caused an explosion which had taken place in the year 1917. In other words, two years after I had left the United States.

I am just mentioning this fact, Mr. President, since this propaganda honored me with titles such as "master spy", "Chief plotter", and other pretty names; for this propaganda is the background for the judging of my personality, and something which I felt in 1932 when I entered public life.

THE PRESIDENT: I think that would be a convenient time to break off.

(A recess was taken until 1400 hours.)

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AFTERNOON SESSION

(The hearing reconvened at 1410 hours, 14 June 1946.)

FRANZ VON PAPEN--Resumed
DIRECT EXAMINATION--Continued

THE MARSHAL: If it pleases the Tribunal, the report is made that the defendar Funk and Speer are absent.

THE PRESIDENT: Yes, Dr. Kubuschok.

BY DR. KUBUSCHOK:

Q Witness, we stopped at the formation of public opinion. Please continue in telling us of your career.

A I spoke of propaganda about myself in the last World War in the United States. No effort was ever made to investigate whether this judgment was true or false. That which I was able to do actively in those years, to oppose sabotage, to fight against submarine warfare, never became known.

This propaganda was public defamation, and it reached its height in 1942, in a pamphlet published in New York, with the beautiful title "The Devil in the Top Hat". It repeats all these fairy stories without criticism, and adds new ones.

Thus, so-called public opinion was formed about me, which I believe is a completely distorted picture of my character, my opinions, and, above all, my motives in the time from 1932 to 1945.

I ask the Tribunal to recall these psychological connections when I attempt to give a true picture of my thinking and my acting.

After returning to Germany in 1916, I did my duty as a soldier, as a battalion commander, and as an officer of the General Staff in the war in France. In 1917 I became Chief of the Operational Section of Army Group Falkenhein in Turkey. When Falkenhein was recalled in 1918, I became Chief of the General Staff of the Fourth Turkish Army until the armistice.

Perhaps I may recall briefly--after so many bad things have been said about me by the world--an episode which shows that I was able to do something useful for the history of Humanity. On the 8th of December 1918, after a hard struggle with the German and Turkish headquarters, I succeeded in having Falkenhein evacuate Jerusalem. This city was not shelled and not destroyed by the English army because of this decision.

THE PRESIDENT: The translation came through to me, I thought, the 8th of December 1918. That must have been 1917.

THE WITNESS: No, 1918, my Lord, 1918. The 8th of December, 1918.

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When in November, 1918, after negotiating with Atatuerk on the removal of the Germantroops, we received the news of the collapse of the German Army and of the abdication of the German Kaiser. This fact meant for me not only the loss of the war. The whole world had collapsed for me. The German Reich had collapsed from a thousand years' development and everything that we had believed in had been plunged into an unforseeable future. I decided to draw the conclusions.

After my return to Germany, I asked for and receive my resignation from the Army. I went home where I rented a modest agricultural holding. There I was on traditional soil and devoted myself to home tasks. Now farmer friends entrusted me with the administration of their community affairs. They chose me as honorary major and in 1923, they sent me to the Prussian Parliament.

When I was requested to do this, I decided not to join the Right, the German National Party, but the centre Party, the Zentrum, and the decisive point of this decision was my conviction that in this party I could do more for regulating social matters than amongst the conservatives. At the same time this Party represented the principles of a Christian concept of the State.

The 8 years in which I belonged to Parliament were filled with struggles for strengthening the German Republic internally. In the Zentum Party, I represented the conservative ideas of my agricultural electors. I endeavored to make this Party, which in Prussia had formed a coalition with the Left, form a coalition with the Right also. Thus I wanted to form an equilibrium from the tension of which National Socialism was born.

At this time also I tried to remove the discriminations against Germany in various terms of the Versaillles Treaty. By way of reaching a better understanding with the French people, I became a member of the German-French Study Committee, a committee which had been founded by the Luxembourg industrialist Meirich, which contained a large number of outstanding men of both countries. Closer relations and conferences united me with the formations of both countries. On the French side was the well known leader, Colonel Picard. I took an active part in the congresses of German-French Catholic circles which

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met in Paris and Berlin. All of these efforts were directed toward the aim of a deeper knowledge and comprehension of our two countries.

This realization of mine was strengthened when, after 1929, I moved to the Saar which was, at that time, under international control. Then in 1929 the Germans accepted the Young Plan, and I asked Mr. Stresemann to undertake a thorough question without plebescite with Mr. Bruening because I was always of the opinion that a voluntary mutual solution of this question would leave less resentment and more community spirit than a decision brought about by an election struggle carried on with passion on both sides. Unfortunately, this did not come about.

In 1930, the big world economic crisis arose which affected conquerors and conquered alike. Germany's new democratic form was not able to cope with such a burden, and under the increasing economic pressure and increasing internal tension, in the spring of 1932 the Papen Cabinet was formed. Here began the political group for which I am glad to answer before this Tribunal, and here I should like to add a request to the Tribunal. The Tribunal has said that the defense has to express themselves briefly because the defendant Reichsmarshal Goering presented the History of National Socialism fully. Please consider that I am not speaking for National Socialism here. My defense will be that of the other Germany.

DR. KUBUSCHOK: In the questioning of the witness, it is necessary to go into detail on the events and the activities of the witness as Reich Chancellor of the German Reich in the year 1932. The indictment refers to the time, the 1st of June 1932, the time of the appointment of Mr. von Papen as Reich Chancellor. The indictment sees, in the official activity of the Reich Chancellor, the preparation of the way of the Hitler Government.

The defense will explain that the Papen Government had a program completely independent of the ideas of National Socialism, a program arising from Papen's own basic ideas, to which he remained loyas in the following period also.

THE PRESIDENT:. Dr. Kubuschok, it is not proper for Counsel to make a statement of that sort. He must elicit the statements from the witness by questions, and the question must be so formed so as not to formulate the

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answers for the witness. We want to hear the answers from the witness.

DR. KUBUSCHOK: Mr. President, I only wanted to point out that this period of time before 1933 must also be discussed for better understanding ...

THE PRESIDENT: We have to stop you from eliciting the evidence. Ask the witness. You must not state the facts yourself.

BY DR. KUBUSCHOK:

Q. Witness, will you explain to the Court what the situation was in Germany when Hindenburg called you to form a cabinet on 1 June 1932?

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A. Before I answer this question, will you please permit me, My Lord, as one of thelast chancellors of the Reich, to make a brief statement on the government formed by me? To what extent the Charter of the Court in our opinion applies to the different governments of the Reich will later be developed by one of the other Counsel.

If the Indictment concers my activity a s Reich Chancellor in 1932, I assume that this is in order to get a clear, historically accurate picture of the developments and a judgment on my total personality. For this reason, I wi ll comment on this part of the accusati n.

I muststate here decisively that this cabinet of 1932 governed according to its best knowledge and c nscience under the constitution and under the emergency powers of the President, at a time of a most severe internal economic depression.

It is an historical fact that the activity of my cabinet would not justify the slightest suspicion of crime in the sense of the Charter. I believe I must make this statement, My Lord, to uphold the integrity of my ministerial colleagues and, above all, the integrity of the President, Field Marshal von Hindenburg, the last great historicial figure of Germany.

Dr. Bruening, my predecessor in office, was highly esteemed by us all and had been welcomed with great expectations. During his period of office were the great economic crisis, the customs blockades by other countries, production and trade almost completely at a standstill, no currency to acquire the n cessary raw materials, increasing unemployment, the youths on the streets, world depression leading to bankruptcy of the banks, government possible only through emergency decrees; that is, by one-sided legislative acts of the President. Support for the unemployed empties the treasury, is unproductive, and is no solution. As a result of the great unemployment, the radical parties are increasing. The political splitting up of the German people reaches its height. In the last Reichstag election, there were 32 parties.

After the war, we had all hoped that we might be able to build up an orderly democracy in Germany. The English democracy was our model, but the Weimar Constitution had given the German people an abundance of laws which did not correspond to its political maturity. In 1932 it had long been clear that the Weimar Constitution made the mistake of giving the government too

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little authority. I recall this fact: That the forming of a government often took weeks because all parties participated.

In Prussia, since 1919, the Social Democrats had ruled. They divided with the "Zentrum" in filling political offices in Prussia. The dualism in the greatest of the provinces and the Reich was constantly increasing. My wish that Bruening might return to the old Bismarck Constitution, to be Reich Chancellor and at the same time Prime Minister of Prussia, in order to unite the policy of this greatest province with that of the Reich, was refused by Bruening.

In all theseyears, in the last years, nothing happened and nothing was done to stop the growth of the National Socialist movement or to direct it into a politically responsible course.

This political confusion and the realization that something would have to be done in order to make it possible for the Reich government to govern and to make it more independent of the parties brought Hindenburg to the decision to appoint a cabinet independent of the parties, directed by experts. The members of this cabinet of mine were all experts in their fields. Von Neurath was an old diplomat. The Minister of the Interior, Goil, was an old [illegible] official. The Agricultural Minister was general director of great agricultural societies. The Finance Minister was Ministerial Director in his ministry. The Railroad Director, Elz, had been president of the board of directors of a railroad, and so forth.

Q. Did the intention to govern authoritatively bring about a struggle of the parties?

A. Field Marshal Hindenburg had great confidence in Bruening, but he did not forgive him for failing to succeed in winning the rightest parties for the re-election of Hindenburg as President in 1932. In 1925 the rightest parties had elected Hindenburg for the first time. At that time Hindenburg had been elected against thepassionate opposition of the Left and the Center. Now, in 1932, he was to be elected precisely by these leftist parties who had opposed him and against the Right.

Against the old, great soldier of the world war, the opposing candidate was an unknown soldier of the Stahlhelm. Of course, this pained the Field Marshal greatly, and I point out that in the presidential election in

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1932 Hitler received over 11,000,000 votes, which was more than 30 per cent of the total vote for president.

Why the President chose me as Chancellor, I do not know. I can say that I myself did not lift a finger to bring this about.

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The procedure was as follows.

I am telling this, My Lord, in order to answer the charge that this formation of a cabinet was the beginning of an intrigue and a conspiracy.

On the 26th of May, 1932, I was at my estate in the Saar. Mr. von Schleicher, the Defense Minister, called me up there and asked me to come to Berlin. On the evening of the 27th, I arrived in Berlin. On the 28th I went to see Mr. von Schleicher. Mr. von Schleicher said to me: "There is a cabinet crisis; we are looking for a chancellor." He discussed various personalities with me, and finally he said: "The President would like to have you." I was greatly astonished, and I said "Why?" I then asked for time to think it over.

On the next day I discussed the matter with my friends, and on the 30th I went to see Mr. von Schleicher again. I said to him: "I have decided not to accept." Mr. von Schleicher said: "That won't do you any good. The President wants you under all circumstances." I answered Mr. von Schleicher: "The President probably has a wrong conception of the political strength which I would bring to him for this Government; he probably thinks that the Zentrum would support me politically. There can be no question of that."

On the afternoon of this day I went to see the head of the Zentrum Party, and I asked him about that. He told me: "Mr. von Papen, do not accept the offices; the Party would immediately oppose you." I said: "Thank you, that is what I thought."

I then went to see Hindenburg and I presented the situation to him. Hindenburg stood up and said: "I did not call you because I wanted the support of any party through you; I called you because I want a cabinet of independent men." Then he reminded me of the duty which I would have toward the Fatherland. When I continued to contradict him, he said: "You cannot leave me in the lurch when I need you." I said: "No, under these circumstances I will not leave you in the lurch; I will accept."

THE PRESIDENT: Dr. Kubuschok, the Tribunal thinks this might be dealt with in slightly less detail. The facts could be stated with less detail.

DR. KUBUSCHOK: We will act accordingly.

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As proof for the talk with the Zentrum I refer to document book 1, document 1, page 1. I submit document 1 as Exhibit No. 1.

BY DR. KUBUSCHOK:

Q Witness, you have been accused of having intrigued against Bruening in some way. Is that true?

A In no way. I have already said that I had a very high opinion of Dr. Bruening personally, and that from the day when Mr. Von Schleicher called me in -- that is, three days before my appointment -- I never had the slightest idea of being appointed as Bruening's successor.

Q Did you talk to Hitler beforehand about the Government to be formed by you?

A No, that is completely false; it is a completely false statement of the prosecution. The History of the NSDAP, by Pfeffer, in which that is stated -- and that is document 3463-PS -- is a purely private work and was probably financed by Goebbels and his Ministry.

I state that my government, according to the wish of the Reich President, was to be created by a fait accompli, without any negotiations with any party or the head of any party.

Q Did you not promise Hitler the dissolution of the Reichstag beforehand?

A This statement of the prosecution is also untrue. I did not previously discuss the dissolution of the Reichstag with Hitler. The Reichstag was dissolved on the 4th of June. I saw Hitler for the first time in my life five or six days later. The dissolution of the Reichstag, as such, was a matter of course, because the new government wished to have the judgment of the electors on the new course and on the government's program.

Q What were the political aims of your cabinet? Please give this briefly.

A The central problem which occupied us was an economic one, the big economic crisis and the one and a half million unemployed young people, the six to seven million completely unemployed, and the twelve to thirteen million, altogether, only partly employed.

Attempts of my predecessors to help the situation with purely State means

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were inadequate; they were a burden on finances and had no result. The aim of my government, therefore, was to employ private economy to solve this problem. We wanted to bring the whole production machinery into working order again, and with the use of 2.2 billion marks we wanted to put this process into operation. In the current year we wanted to employ one and three-quarter million workers.

Such a program could not have been reconciled with the parties. The political aim, together with the reorganization of the economy, was to have the strongest of the opposition parties, the NSDAP, drawn upon for practical cooperation.

That was the central problem of German internal politics, and it had been shown, through National Socialist governments in Thuringia, in Brunswick, and in Oldenburg, that this attempt could be made without the danger of revolutionary movements. I could, therefore, hope, through a national and social program, to find approval of the Reichstag.

Q For the Government's statement, I refer to document 1, Exhibit 1, pages 2 and 3.

You spoke of the solution of the social problem as the main task of your government. Will you please explain briefly how you regarded the problem and how you attempted to solve it?

A I believe that in no country in the world was the problem of capital and labor as great as it was in Germany, as a result of industrialization and alienation of the soil. The reason is known; I need not speak of it. However, one of the reasons, which is generally overlooked, was the German inflation, which had destroyed all liquid property in Germany. This inflation had affected the middle class and the workers, who formed the backbone of the nation. It had robbed them of savings and their property, and workers, tradesmen, the middle class, had become the proletariat.

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At the same time, with the social processes in Germany, a new social order had arisen in our great neighboring countries, the order of classless society and the totalitarian state. The democratic powers of the world resisted the export of this system. They took protective measures in the economic field, but these protective measures, the "New Deal", and "Ottawa", weakened the German position all the more.

THE PRESIDENT: Dr. Kuboschok, I think the defendant must realize that this is all very familiar ground to the Tribunal, and it is not necessary to restate it in detail.

THE WITNESS: I only wanted to explain to the Tribunal that this social problem was the basis for the whole matter which developed historically.

DR. KUBUSCHOK: The question of the social problem is the question of the development of the NSDAP, and the witness is going to comment later from this point of view.

BY DR. KUBUSCHOK:

Q Witness, you said that before the formation of the government you did not contact Hitler. When did you see Hitler for the first time, and what agreements did you reach?

A I have already said that I saw Hitler for the first time on the 9th or 10th of June. This talk was an order to ascertain under what conditions Hitler would be willing to tolerate my government. My program by the National Socialists was to be expected. Hitler's demand for such treatment of the government program was the removal of the prohibition of uniforms for the SS; that is, making his party politically equal to other parties.

I agreed at that time all the more because the prohibition against the SS since the Bruening government had been an obvious injustice. The SA had been prohibited, but the formations of the socialists and the Communists, the "Rotfront" and the "Reichsbanner had not been prohibited.

The success of my promise to Hitler was that Hitler obligated himself to tolerate my government.

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DR. KUBUSCHOK: I should like to correct a mistake made by the witness. He spoke of the "SS", and meant "SA". There was no SS at that time.

I refer to Document 1, Page 3, regarding a statement of the President concerning the removal of the prohibition against the SA. The President points out that he decreed the lifting of this prohibition under the condition that there would be no acts of violence in the future. He says furthermore that he was determined with all constitutional means at his disposal to act against all violations of any kind if this expectation was not fulfilled.

BY DR. KUBUSCHOK:

Q Will you, witness, make a brief statement concerning your efforts in the course of the Lousanne Conference in June, 1932, which had such a great influence on the development of the NSDAP?

A I ask for permission to go somewhat more in detail about this conference, because the result was closely connected with the enormous increase of the NSDAP immediately thereafter. This conference had been prepared long beforehand, as is known. It was to abolish reparations.

But I went to Lousanne with many other aims and hopes. The abolition of reparations was, so to speak, a "cause jugee". But what was necessary was to help Germany's moral discomfort, if Europe was to find an orderly test. This moral dissatisfaction had many reasons. Germany had become a "second rate nation". It had been robbed of sovereignty as a defensive power, the Rhineland, the Corridor, the Saar, and others.

I have already described the economic conditions. This economic and political development of conditions helped the radical elements, and the extremists increased in every direction.

If there was to be a conference, then, not only did the reparations question have to be solved, which was negative, but positive moral aid had to come. My program was the restoration of the sovereignty of the Reich. In the first place, the famous

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Paragraph 231 of the Versailles Treaty was to be abolished. That was the paragraph which stated Germany's sole responsibility for the war. Historical events of all countries had long established that we were not the only ones responsible. In the second place, confidential relations with France had to be established.

THE PRESIDENT: The Tribunal does not think that this really is very important for them.

DR. KUBUSCHOK: May I explain quite generally that the events in 1932, internal and foreign political events, formed the key for the growth of the NSDAP, which led to the 30th of January, 1933. We discussed various questions here; we discussed the events of 1932. We will be able to come back to it. I believe then we will first go on here. Therefore, I ask to permit the discussion at this time in somewhat greater detail.

THE WITNESS: I will make it as brief as possible, Mr. President.

THE PRESIDENT: I think we had better go on, as you suggest, from 1933. Is that not what you were suggesting, that you should go on to 1933, and then possibly come back to 1932, if it is necessary?

DR. KUBUSCHOK: No, that is not what I suggested. I said that the discussion of conditions in 1932 would find the key for the growth of the NSDAP and the formation of the Hitler government.

THE PRESIDENT: Yes; but the defendant has been discussing the conditions of 1932 for a long time now. Surely we can get on to something which has something to do with the National Socialist party now.

THE WITNESS: I will come to this immediately, Mr. President. I only wanted to say that I took up these subjects at Lousanne and tried to achieve understanding for the internal situation in Germany. I talked to the French prime minister and negotiated with him with respect to striking out that famous paragraph. I negotiated a pact with him, but nothing came of all this.

H0157-0057

For reasons which I do not want to go into now, the final result of the conference of Lousanne was negative.

BY DR. KUBUSCHOK:

Q What was your point of view in the armament question?

A My point of view in the armament question, which played a role in the year 1933, I had already determined at that time in Lousanne with MacDonald, the prime minister, and M. Herriot. Later, in an interview, I did discuss this point of view with Herriot. I quoted this point of view again so as to have it well defined. That is in Document 55. In this document I said that it was not a question of German rearmament, but only a question of equal rights and equal treatment for Germany.

I need not quote this document. It is in the hands of the Court , Document 55.

DR. KUBUSCHOK: I submit Document 55 as an exhibit, and further refer to Document 1, which has already been submitted, on Page 9, and Document 6, which I submitted as Exhibit 3, and refer to Page 22.

THE WITNESS: At the conclusion of the Lousanne conference, I told MacDonald and Herriot, "You must give me a firm political success, for my government is the last government in Germany. Later there will be only rightists and leftists, or extremists". But they did not believe me, and I returned from Lousanne with only a half-success.

THE PRESIDENT: I think this would be a good time to break off.

(A recess was taken)

H0157-0058

Q Witness, you said that the outcome of the Lousanne conference did not come up to your expectations. Why did you, just the same, sign this contract?

A First of all, I had to sign it. Otherwise, there would have been a continuation and Germany would have become an economic vacum. Then we were directly confronted with the Reichstag election and I had to try to salvage the best possible from the situation.

DR. KUBUSCHOK: In connection with this question, I should like to submit Document No. 7, to become Papen Exhibit No. 4. This document is a statement by von Papen, dated the 12th of July, 1932, the speech made at Lousanne, and with the permission of the Tribunal, I shall read a short extract in which Papen says: "But just aslittle as we are unable to erase by a one-sided act four signatures given since 1918 by former governments, just aslittle was this possible with the solemn obligations --"

THE PRESIDENT: What is this document? No. 7 you say?

DR. KUBUSCHOK: Document No. 7, yes; Page 23 in Document Book I. Exhibit No. 4, My Lord.

"-- just aslittle was this possible with the solemn obligations which were undertaken at that time by the government's parties in the name of the German people. The present government simply had to liquidate a situation which had been created by all former governments since signing the Versailles Treaty. This question of whether this situation can be liquidated if Germany denies the validity of her signature and with it places herself outside the conception of cultural and other standards, I must answer it with a definite "no".

In the reading of this quotation, I should like to point out that this attitude, especially since the propaganda given out by the NSDAP, this attitude taken by the defendant at that time is especially noteworthy.

BY DR. KUBUSCHOK:

Q On the 18th of July, 1932, the Reichsminister of the Interior prohibited demonstrations. This was a general decree, as you have already sai, on the 16-6, relating to the prohibition of the wearing of uniforms. Since that prohibition had been lifted, what were the reasons for the proclamation against demonstrations being proclaimed?

A The condition under which Hindenburg had rescinded the prohibition

against the wearing of uniforms, that did not take place. Meetings became more and more radical astime went on and now I decided to suggest to the Reich President a decree prohibiting demonstrations. In order to distinguish this decree from the decree which had prohibited the wearing of uniforms, this decree dealing with demonstrations treated all parties equally. Therefore, it did not prohibit only the SA but all fighting formations of the other parties.

Q Now I shallturn to the 20th of July, '32. The prosecution dealt with this statement and it calls your behaviour a "coup d'etat", and the witness Severing hasgiven testimony in that regard. What was the reason for your action on the 20th of July, 1932?

A My actions were based on the necessity for the restoration of orderly circumstances, the re-establishment of order. I had received reports about collaboration of the police department of the Prussian Ministry of the Interior and Communists. The position of the Reich government at Berlin has to be considered specifically in this case and I do not know whether the High Tribunal is cognizant of the legal position. The Reich government at Berlin was not an extra territorial domain or region such asobtains in the United States in Washington, D. C.; but it was in the police power of the Prussian State. My own surveillance, that is the guarding of the Reichschancellor, that was a task which belonged to the Prussian police. Then, if there in the Prussian police ministry agreements with the Communists were effected, that was something which concerned the security of the Reich government. In this instance we were concerned with an act against the Prussian government, but it was not a political incident or a procedure against Socialism as such. Neither was it a Nazification of the Republican police, as the witness Severing testified here. Officials, with the exception of a few higher place officials, remained completely unchanged. As I sized up the situation there, I made it known in a radio speech on the evening of the 20th; I told the German people about my sizing up of the situation. The High Tribunal will find this speech in Document 1, Page 4. However, I shall forego the reading of this speech.

DR. KUBUSCHOK: I should further like to point to Document 2, which I wish to submit to the High Tribunal as Exhibit No. 5. I should like to point out Page 15, specifically, in which case the defendant, von Papen, gives his opinion about the necessity of this measure.

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BY DR. KUBUSCHOK:

Q Your taking steps on the 20th of June, was that brought before the highest German tribunal and was any decision made?

A Yes. The Prussian cabinet started proceedings before the Reich Tribunal at Leipzig and a judgment was passed. This sentence confirmed the action of the Reich's president. It is therefore impossible for the prosecution to call this matter a "Putsch" and characterize it as such.

DR. KUBUSCHOK: I should like to call your attention to Document 8, which I wish to submit as Exhibit No. 6. This is an extract--I beg your pardon.

THE PRESIDENT: Dr. Kubuschok, is it necessary for you to give the document exhibit numbers different from the document numbers? You see, it becomes a little bit confusing. Each one of these documents has got, at the head of the document. 1,2,3 and so forth, and they follow each other --

DR. KUBUSCHOK: I should like to acquiesce in the suggestion of the High Tribunal and retain the same number. Therefore, Document 5 shall become Exhibit No. 5.

THE PRESIDENT: That would be much less confusing, I think, if you could.

DR. KUBUSCHOK: Yes, indeed, My Lord.

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DR. KUBUSCHOK: Yes, indeed, my Lord. This exhibit No. 5 is an extract from the sentence of the State Tribunal, dated the 20th of October 1932. On page 19 in the beginning, the judgment is maintained and it is stated there that the decree of the Reichspresident of the 20th of July 1932 was entirely legal.

THE PRESIDENT: Well, Document No. 8 will be Exhibit No. 8, won't it?

DR. KUBUSCHOK: Yes. This is No. 5, your Honor. If it said 8, I misspoke. It is No. 5.

THE PRESIDENT: It is quite clear, anyhow, that the exhibit numbers will be the same as the document numbers.

DR. KUBUSCHOK: Yes, your Honor; they will be identical.

THE PRESIDENT: And you are now on Document No. 5, Exhibit No. 5.

DR. KUBUSCHOK: Yes.

BY DR. KUBUSCHOK:

Q How did the Prussian Government, and specifically Prime Minister Braun, act when this judgment was made known?

A The Prussian Government and the Prussian Prime Minister of course recognized this judgment, and this is shown by discussions which I personally had later on in October with the Prussian Prime Minister.

DR. KUBUSCHOK: Regarding the position taken by the Prussian Government, I should like to submit Document No. 86, which is contained in Volume 3 of my document book. However, because of technical difficulties, this volume is not completely translated and cannot be submitted today.

BY DR. KUBUSCHOK:

Q Witness, on the 29th of July 1932, you had an interview with a United Press Correspondent and you stated in detail your position on the armament problem. Since this topic is of special significance for your case and your defense, I should like to have you comment on this matter.

A I should like to clarify my attitude on the armament question, for it is the same which I held at the time that I became Vice Chancellor under the government of Hitler. I should like to refer to Document 1, which sets forth my interview to the United Press, and I should like to quote from Document No. 86 which is the radio speech which I made on the 12th of September. On that occasion I said --

Q (Interposing): Perhaps, Witness, you could just give us the few

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main key words, and in that way tell us the contents.

A If the Tribunal would like to check on the contents of my speech, it will be found in Document 86, and upon looking at this document the Tribunal willfind that I was for disarmament and for peace. On that occasion I appealed to the major powers and tdd them -- and I wald like to quote this sentence:

"In these days, Germany will undertake a gigantic attempt through the mobilization of her last internal reserves, in order to bring about work and social peace and satisfaction, so that the leading statesmen of the major powers now, for their part, will take the decision to bring an end to the poisoning of agreements, and that that shall be brought to an end."

DR. KUBUSCHOK: On the 31st of July of 1932, the Reichstag election took place. First of all, I should like to submit a diagram in which the election results of the various elections held in the years 1930 to 1933 are tabulated. This is Exhibit No. 98, which I should like to submit to the Tribunal. From the figures shown there we can see the political development of Germany and follow it.

BY DR. KUBUSCHOK:

Q Witness, what was the result and what were the political conclusions you drew on the eve of the election ?

A On the 30th of July I spoke to the United States and I said, "The world does not realize that Germany is confronted with a civil war. The world did not help us to vanquish our difficulties at Lausanne, and it is unbearable that 14 years after the end of the war there is no parity, no equality of rights for Germany."

The election of the 30th of July brought more than a doubling of the Nazi votes. From 6.4 million the figure rose to 13.7 million votes cast for this party; 230 members of the Reichstag as opposed to 110.

The conclusions to be drawn from the results of this election were that no majority government could have been formed from the utmost rightist to the Social Democrats without the NSDAP. With that, the Party had a parliamentary key position.

The Prosecution is trying to interpret the increase of the Nazi vote to the rescinding of the decree on prohibition of wearing a uniform, and that is an explanation which is altogether too

simple. In fact, the prohibition of wearing of uniforms was a decree which had been rescinded, and that resinding had been in effect for one month, from June until July, and two weeks prior to the election I had issued the edict.

The real reason for the tremendous growth in the Nazi votes was the entire economic condition in which Germany found herself and the fact of the general disappointment about the lack of foreign political successes at Lausanne.

Q. Now, what was the conclusion that you drew from the results of this election ?

A. The conclusion I drew was the same opinion which I had held before. On the next day I gave an interview to the Associated Press, and through this interview I told the entire world, "The National Socialists have to share responsibility, have to be given responsibility, and when that has come about we have to bring about a reform of the constitution."

DR. KUBUSCHOK: Because of the nature of the historical facts, I would like to refer to Exhibit No. 1 which has already been submitted, and especially to pages 4, 5, and 6.

BY DR. KUBUSCHOK:

Q. Witness, please tell the Tribunal briefly about your negotiations with Hitler.

A. On the 12th of August, I had a long discussion with Hitler. In order to clarify my position, I showed him the necessity of his participation in the government, and I declared my own readiness to resign as Chancellor in a few months if our collaboration was futile, and after von Hindenburg had found confidence in Hitler.

As far as the political parties were concerned, as is well known, the rightist parties had supported my cabinet. The Zentrum Party was the opposition. Now, after these elections, the Zentrum Party asked for Hitler as Chancellor, but Hitler himself did not want to become the head of a majority or coalition government.

The truth of this picture is shown in Document 1, page 6, the first paragraph, last page. I quote :

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"Kaas, the leader of the Zentrum Party, demands a final solution of this crisis by the full responsible participation of the former opposition in the Reichscabinet."

I suggested to Hitler that he enter my cabinet as Vice Chancellor, However, Hitler declined. On the next day, we continued with our negotiations, and we did this in the presence of the Reichspresident.

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Hitler voiced the demand to the Reichs President to enter the Government together with his Party, but only on the condition that he himself be appointed Chancellor. And this may be seen in this document on Page 6.

Q It is document Number 1, your Honor.

A The Reichs President did not believe that he should transfer complete authority to Hitler and rejected his proposal. At this point, our efforts for bringing National Socialism into a responsible Government had failed.

Q The defendant Von Papen voiced his opinions in a speech at Munich, a speech which can be found in the Document Book, Exhibit No.1, Page 10.

After the failure of these negotiations, the National Socialists entered into the most intense opposition of the Government. Was your course changed in any way through that opposition?

A The attitude taken by the opposition, that is, by the Nazis, and the attitude against me and my Government did not change my course at all. On 28 August, I deal with this order in detail. I spoke at Muenster about this matter.

Q This speech may be found in document No. 7, Exhibit No. 7. I beg your pardon, document 1, Page 7. And on this page, I would like to have you peruse a report on a judgment of a special court at Beuthen. Here the very first death sentence pronounced on the terror directors of the 8th was passed, and this terror directive . . . The Prosecution wishes to incriminate defendant von Papen because of this terror directive. A death sentence against 5 National Socialists was found.

On the 4th of September you issued an emergency decree to revitalize economy. Since this decree is a nucleus in your Government when it comes to the solution of economic problems, I should like to have you comment on this emergency decree.

A This emergency decree had been discussed by me already, and I had stated that it comprised a program dealing with 2,2 billion Reichsmarks with the aim of creating work for one and three-fourths million workers, people who were unemployed, to supply themwith employment. We made this gigantic effort without incurring even a penny more of increased foreign debt, and

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if I may use these words to characterize the situation, it was the utilization of our utmost and our last reserves of strength. The success already made itself noticeable in the first month in that the unemployment figures decreased during the first month by 120,000.

Q In one month?

A Yes, in one month.

Q Under the framework of supplying work to the unemployed, were you concerned with rearmament?

A Not at all. My Government did not support rearmament with one penny.

Q And the details of this emergency decree may be found in document 1, on pages 8 and 9.

Why, on the 12th of September, was there another dissolution of the Reichstag? What did you say about this on that evening over the radio?

A The new Reichstag met according to the constitution. My Government, as I have already said, could not bring about a majority, but any other Government without Hitler was quite impossible. We could not form a Government without him. Therefore, it was my suggestion, which was justified, that this Reichstag would give my Government a reprieve, and especially since I had submitted a very decisive and a very comprehensive program to the Reichsstag.

Then, something happened. Something quite unexpected -- something quite fantastic and unheard of. The thing that happened was, so to speak, the prostitution of the German parliament. Mr. Goering, the President of the German Reichsstag, now gave to the communist delegate, Clara Zetkin, the impetus to an unheard of attack on my government. When I asked for conditions to be heard, I who was the responsible Chancellor of this Government, in order to answer, I was refused to speak, and the Reichsstag President asked for a vote of no confidence and when the vote was brought in, it brought the Communists, the Socialists and the National Socialists. The fact of this concerted motion on the part of the three parties really was meant to show what was to take place in Germany if and when these three parties were to rule in Germany together, and such symptoms, such signs, showed how imperative it was for me to try not to crowd National Socialism

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into the Leftist wing, but to bring them into my Government instead.

I was forced to give the dissolution order of the Reichsstag -- put it on the table, and to leave.

Q These historic facts may be found in Document 1, page 8, and the document which I have already referred to without having submitted it, Document 86, Page 192.

At a speech in Munich, on 12 October, you spoke about the question of a Constitutional Regime. Please tellus briefly just whatyour opinions were that you voiced on that occasion.

A The Constitutional Regime, as I have already mentioned, was one of the more urgent objectives and aims of my Government. The reasons for this are shown in this document on page 9. This regime was to comprise a regime of the right to vote so that this multiplicity of parties would be ended. Above all, it was to get more authority into the Government, and more of a possibility to rule than was possible under the Weimar Constitution.

Q Just to clarify, I should like to mention that the Constitutional Regimes wanted to do away with some of the circumstances under which Article 48, Emergency Decrees, was issued. The magnitude to which this took place may be seen in Document 4, which is an extract from the wealth of emergency decrees which were issued.

Witness, on the 6th of November, 1932, there was a Reichsstag election. What was the election slogan of the Government and what was your opinion about the result?

A Unfortunately, we had to vote once more. The program of my Government was identical with what it had been before. That meant it was an attempt to bring about a new state leadership or a new way of carrying on the Government so that the Government and the authoritarian government could work together with a parliamentary regime.

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In this appeal for election of 4 November, I turned to Hitler, and I told him: "It is the exclusiveness of your party, the fact that you demand everything or nothing--that was something that the Reich President could not recognize or accept, and this is the thing that brought about his decision of 13 August. The things that are at stake today are not whether this or that party leader will occupy the Chancellor's chair, whether his name be Bruening, Hitler or von Papen, but, rather, that thing that is at stake is the fact that we meet on common ground so that vital interests of the German people can be assured".

I hoped through this Reichstag election that the National Socialists, whom I was fighting against, would be weakened in such a way that this party would be squeezed out of the central parliamentary position. This result was not achieved. The National Socialists lost 34 seats in the Reichstag, but that was not sufficient to crowd them out of their key position, for, again, the formation of a majority in the Reichstag from the Socialists to the extreme Right was possible only with Hitler. Without him, no majority.

In order that we might be in a position to continue governing in a constitutional way, I tried once more to negotiate with the various parties and the National Socialists.

Q. Please give us a picture of these negotiations.

A. These negotiations are interesting, and the Tribunal must be made familiar with them so that they can judge the events of 30 January.

First of all, I tried to clear the situation with those parties that were in opposition to my government, and especially with the Social Democrats and with the Center Party. The Center Party held an adverse position. It wished a majority, a coalition government with Hitler, but Mr. Hitler did not wish to govern or rule with a parliamentary majority. From document 2, page 13, we can see what the attitude of the Center Party was.

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Then, after collaboration of Hitler for a coalition government was quite out of the question, I again turned to Hitler in order to ask him whether he was now ready to enter my government. I did this because I had a feeling of responsibility in order to achieve any sort of result at all, and, therefore, I wrote him the letter dated 13 November 1932, which is found in document D-633, which was submitted by the Prosecution as an "undignified" document".

Since, after all of my failures, I had once more turned to Hitler, in this letter I said that I considered it a violation of duty if I did not turn to him, in spite of everything, once more, and that I was of the opinion that the leader of such a movement or party, whose worth to the country and the people I appreciated even though I had criticized them, should not turn down a discussion with the head of the State.

Q. Then on 8 November you again turned to the foreign press and you voiced--

A. May I interrupt? I should like to add, in regard to the judgement by the Prosecution of the letter, that in every parliamentary state, it is customary that if the leader of the government turns to the opposition to ask for its cooperation and collaboration, he extends a courteous and cordial letter to the leader of the opposition, and that he would not call him an ass. Therefore, I can not quite see why these remarks of mine are characterized as a lack of dignity on my part.

Q. On 8 November you turned to the foreign press, and you spoke about the revision of the Versailles Treaty. Will you please comment briefly on that and tell us what you said at that time?

A. I should like to mention the speech made to the representatives of the foreign press so that the High Tribunal will be fully aware of the repeated appeals I made to foreign countries, to the victorious powers, so that they could be ready to meet the Reich on moral grounds and moral atonement, for then, Gentlemen, the radical movements in Germany

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would have disappeared of their own accord and there would have been an ebb to all of these movements.

DR. KUBUSCHOK: This speech before the foreign press will be found in document 1, pages 11 and 12.

BY DR. KUBUSCHOK:

Q. What were the consequences of your failure to come to any agreement with the party leaders?

A. The failure of my negotiations with the party leaders led to my resignation, which took place on 17 November. I was instructed to carry on the affairs of the government until a new regime could be formed.

Q. What efforts were made by the Reich President after your resignation toward forming a new government?

A. My resignation gave to the Reich President the opportunity to start afresh and to try once more to bring about a parliamentary majority and to form a government on that basis.

He immediately tried to do that, and beginning on 18 November, he received all the party leaders, beginning with the Rightists and through the Lestists, and on the 19th he received Hitler. The topic of conversation was: How can we create a parliamentary majority government? He instructed Hitler to form a coalition majority government. Hitler would then be Chancellor.

On 23 November Goering presented the answer by Hitler to Hindenburg; and it read as follows: That Hitler could not undertake the formation of a majority or coalition majority government.

On the 24th, Hindenburg received Monsignor Kaas, the leader of the Center Party. He declared that Hitler had not even tried to find out whether a majority government could be formed, but Monsignor Kaas promised the Reich President to try once more to form a majority government.

On the 25th of November he reported to Hindenburg that the attempt had been in vain, that the leader of the Nazi faction, at that time Mr. Frick, had stated that the Party would not be interested in such promises, and the entire result, the formation of a coalition government with Hitler, was quite impossible.

Q Did other possibilities of coalition present themselves ? Were there other possibilities for a majority ?

A There was only the possibility of a cabinet such as I had had, or a majority cabinet.

Q Because of these negotiations, I should like to refer you to document 2, pages 14 and 15.

After this discussion between the Reich President and the leader of the Party had failed, on the 1st of December, there was a conversation between the Reich President and between you and General von Schleicher. This meeting was especially important for the future political development of Germany, and it is of tremendous historical significance. Therefore, I should like to ask you to refer in detail to this conversation.

A The Field Marshal, on the 1st of December, asked that General von Schleichter and I meet him for a conference. I should like to remark that there had been not previous conversation between Mr. von Schleicher and myself about the possibilities of a future government formation taking place.

Mr. von Hindenburg asked us about our attitude and our opinion, and I set forth the following :

The attempt to incorporate the Nazi Party into the Presidential cabinet of Hindenburg had twice failed. Hitler was also rejecting a coalition government. On the other Hand, he was bringing about a tremendous amount of opposition and was trying to have all of

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my decrees rescinded or lifted through the Reichstag. I said : " Therefore, if there is not possibility to form a parliamentary government or to incorporate Hitler into our Presidential cabinet or Presidential government without making him chancellor, then a state of emergency has arisen which requires extraordinary measure, and steps to be taken. Therefore, I propose to have a recess of the parliament for several months, and then deal with a constitutional reform by setting to work on it immediately." These constitutional reforms were to be presented to the Reichstag or to the people.

This proposal, of course, meant a violation of the constitution

I emphasized that I knew how great the importance was, that a great soldier and a great statesman was doing that under state oath. However, as far as my conscience was concerned, a violation of the constitution seemed quite justifiable, because of the extraordinary situation which obtained. The German Constitution had not made any provisions for this situation.

Then he mentioned von Schleicher, and von Schleicher said : " Mr. Field Marshal, I have a plan which will make it unnecessary for you to break your oath to the Constitution. If your are ready and willing to put the government into my hands, I"--"I" being von Schleicher-- " hope that I will be able to create a parliamentary majority in the Reichstag by a schism of the National Socialist Party. By a splitting of that Party, I will bring that about."

In the discussion of this plan, I said that it was of doubtful value to me whether a splitting up of that Party-- a party which was loyal to Hitler-- could

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be brought about. I reminded the Field Marshal of the fact that he should free himself of weak parliamentary majorities through a basic reform.
However, the proposals were thrown overboard through the solution offered by Schleicher. The solution offered by Schleicher was only a provisinal matter, and a very doubtful measure.

Q: What was the decision of the Reich President ?

A: The decision of the Field Marshal was perhaps the most difficult that he had to make in his long life. Without giving any further reasons, he told us: "I shall decide for the solution of Mr.von Papen, and I am asking you to immediately take up negotiations so that you can form a government and so that I can give instructions to your government; that is, the proposals that you have just made."
The conference was at an end.

Q: What did Mr.von Schleicher do then ?

A: I just exchanged a few brief words with Mr. von Schleicher. I tried to move him to acquiesce and recognize the dicision that the Reich President had made, but Mr. von Schleicher said " no."
Then, the same evening, I tried to bring about negotiations for the formation of a new cabinet, or a new government. I spoke with several ministers, and these ministers all told me, " The plan is excellent, but Mr. von Schleicher has told us that we will have a civil war as a result of this. If there is a civil war, the Reichswehr will not be in an position to keep law and order in the country."
I interrupted my negotiations und I called the cabinet together the very next morning. I pictured the situation to the cabinet and I told them of the dicision which von Hindenburg had made. I asked Mr. von Schleicher, then, to tell the cabinet just he believed that there would be a civil war, and why the Reichswehr would not be in a position to keep law and order in the country. Mr. von Schleic had one of his general staff officers summoned, who told the cabinet that this had to be considered from a practical point of view and that, for theoretical reasins as well, it followed that the Reichswehr and police would not be in a position to keep law and order in the country.

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Then I said to the gentlemen, "This is a new situation which I have to report to the Reich president about."

I went to Hindenburg and reported to him. Mr. von Hindenburg, obviously deeply stirred because of my report, said to me, "I am an old man, and I cannot see a civil war in my country in any way. I cannot quite see the possibility. But if Mr. von Schleicher is of this opinion, I must say -- and I do this regretfully -- that I have to take back the instructions on the mission which I charged you with last night".

With that, Mr. von Schleicher was made and appointed chancellor on the conditions which he had told to the Reich president at this meeting.

Q Did Mr. von Schleicher offer you the post of ambassador at Paris?

A Mr. von Schleicher, who knew of my interest in creating an understanding between Germany and France, now asked me whether I wanted to assume the post of Ambassador in Paris. This was something I wanted to do very much. But the Reich president objected to this, and --

THE PRESIDENT (Interposing): The Tribunal thinks that this is going in far too great detail into all this, all of which is known through history, and most of which we have heard before.

BY DR. KUBUSCHOK:

Q Now we shall turn to the year 1933. On the 4th of January, there was a conference between Hitler and you, and this took place at the home of the banker, Schroeder in Cologne. The prosecution is showing this conference to be the beginning of your common conspiracy.

Will you please tell the High Tribunal what the full details were about the background of this conference, and how it came about?

A I was --

THE PRESIDENT: (Interposing) Dr. Kubuschok, we have been hearing for the whole of the afternoon the background of the conference. Surely we can hear of the conference now.

DR. KUBUSCHOK: The defendant is accused of being the motive power in the negotiations which started on the 4th of January, and that he was one of the motive powers for convening the movement which took over on the 30th of January,

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The role which von Papen played is of great significance, and therefore, it seems important to me that he tell us briefly about it.

THE PRESIDENT: The negotiations did not start on the 4th of January. The defendant told us earlier, about a couple of hours ago, that they started on the 12th of August, 1932. The negotiations started earlier than this.

THE WITNESS: Perhaps I should like to say briefly, Mr. President, what we are concerned with here. This conference on the 4th of January, about which the prosecution asserts that I on the occasion of the conference conspired with the National Socialists, was a conference which resulted at the instigation and on the initiative of Hitler.

At this conference, nothing was said about the overthrow of the government of von Schleicher; and there was nothing said about the formation of a government by Hitler, as it actually took place on the 30th of January. On this occasion, we talked solely about the necessity of Hitler's having to decide to participate and assume responsibility, not as a chancellor, but together with his party. And, My Lord, that I did not engineer or cause this conference to be called may be seen clearly from the statement of Mr. von Schroeder, at whose home this conference took place.

DR. KUBUSCHOK: This may be seen from Document 9, Page 26.

BY DR. KUBUSCHOK:

Q Witness, you are accused of the fact that in this conference you made plans for the overthrow of the cabinet of von Schleicher, and that you discussed those plans. Did you keep the news of this conference from Mr. von Schleicher?

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A Quite the contrary. Immediately after this conference at Cologne, I wrote a letter to Mr. von Schleicher, which he would have to receive the next morning. And after I had returned to Berlin, I went at once to Mr. von Schleicher and told him just what had been discussed at this conference. Thereupon, Mr. von Schleicher issued an official communique. Document No.9.

Q 9-A?

A Yes; 9-A deals with this communique. I should like to submit Document 9-A. In this document it says that these official reports showed that there was nothing to do with these controversies which existed between Reichschancellor von Schleicher and Mr. von Papen.

Q Did you, from the 9th until the 22nd of January participate in political discussions about the forming of a nwa government?

A No. Between the 9th and 22nd of January, I did not participate in any political discussions about the formation of a government.

Q Please tell us briefly, in the way of a survey, the manner of the political development, starting with the 10th until the 21st of January?

A The prosecution asserts that now in the interval between the 9th and the 30th of January, I was the chief factor in forming the government of Hitler as it assumed power on the 30th of January.

It may be shown on the basis of chronology that on the days between the 11th and the 30th how completely wrong this claim and assertion of the prosecution actually is. Therefore, I shall have to mention a few dates in this connection.

On the 11th of January: "Hitler is in Berlin. He did not see von Schleicher, von Hugenberg, or von Papen. But the Reichstag decided through the council of elders that we have to give a reprieve to the government of von Schleicher".

On the 13th of January: "Schleicher received Hugenberg, the chief of the rightist movement".

On the 14th: "Hindenburg received Hugenberg".

Later on we shall see that on both of these days, Hugenberg, the leader of the "right flank" negotiated with von Schleicher about his entry into the cabinet, not about the formation of a government with Hitler.

Then on the 15th of January, the well known elections took place. These Lippe Wahlen gave the National Socialists more strength.

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On the 20th of January, the Reichstag, through the Council of Elders, decided to meet, and met on the 31st rather than on the 24th, as had been scheduled.

The state secretary of the Reich government von Schleicher declared in this connection, "The Reich government intends to clear the political situation as quickly as possible. But as far as questions of majority are concerned, the Reich government is really not interested in this majority problem."

From that we could see that Mr. von Schleicher would not even consider the formation of a government on the basis of majority parties.

Q Now we can turn from the general political developments and turn to your personal activities.

THE PRESIDENT: If you are going into another subject, we had better adjourn.

(The Tribunal adjourned until 1000 hours, Monday, 17 June, 1946)